VETERANS EMPLOYMENT PROGRAMS—OPM AND THE DEPARTMENT OF LABOR

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION, TRAINING AND EMPLOYMENT

OF THE

COMMITTEE ON VETERANS' AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

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VETERANS' EMPLOYMENT PROGRAMS—OPM AND THE DEPARTMENT OF LABOR

TUESDAY, NOVEMBER 10, 1981

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON EDUCATION, TRAINING AND EMPLOYMENT, COMMITTEE ON VETERANS' AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 334, Cannon House Office Building, Hon. Bob Edgar (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN EDGAR

Mr. EDGAR. The Subcommittee on Education, Training and Employment will come to order.

The subcommittee had initially planned to hear from the Department of Labor and the Office of Personnel Management today.

However, following the scheduling of this hearing, the President nominated Mr. William Plowden to be Assistant Secretary of Labor for Veterans Employment. Because of delays in the nomination hearing and confirmation process in the Senate, Mr. Plowden has not yet been confirmed. We have honored the request of the Department of Labor that Mr. Plowden's appearance before this subcommittee be delayed until he has been confirmed. We regret that we will not hear from Mr. Plowden today, but we look forward to his appearance before the subcommittee in the near future.

We do welcome today, however, Dr. Donald J. Devine, who is the Director of the Office of Personnel Management. We asked Dr. Devine, in our letter of invitation, to review the provisions of the Veterans Preference Act of 1944, as amended, the VRA program, and other provisions of title 5 and title 38, U.S. Code, which relate to the employment of veterans in the Federal Government. Without objection, I request that a copy of the letter of invitation, dated September 28, 1981, be included in the hearing record at this point.

[The following was received for the record:]

SEPTEMBER 28, 1981.

Hon. DONALD J. DEVINE,
Director, Office of Personnel Management,
Washington, D.C.

DEAR MR. DEVINE: The Subcommittee on Education, Training and Employment has scheduled an oversight hearing on employment of veterans in the Federal Government at which you are requested to present the views of your agency.

The hearing is scheduled to begin at 9:00 am on Tuesday, November 10, 1981, in Room 334 Cannon House Office Building.

Your statement should include a review of the provisions of the Veterans Preference Act of 1944, as amended; the Veterans Readjustment Appointment (VRA) Pro-

gram; and other provisions of Title 5, U.S. Code and Title 38 U.S. Code, which relate to the employment of veterans in the Federal Government.

Of special concern to the veteran community is the impact of reductions-in-force on veterans employed by the Federal Government. Please discuss what protection is available to Federally employed veterans under veterans preference, and provide the Subcommittee with a copy of the regulations, instructions and procedures that address this issue. How many veterans have been affected by the reductions-in-force that have taken place this year, and how many more are contemplated and in which departments or agencies?

Please provide the Subcommittee with an update on the non-competitive hiring authority for veterans who are 30 percent or more disabled and the Veterans Readjustment Appointment (VRA) Program. What action has OPM taken to encourage agencies and departments to hire veterans? The Subcommittee would appreciate receiving copies of printed material that is available in this regard.

In testimony before the Subcommittee in April 1981, you referred to veterans preference documents issued by OPM relating to the U.S. Postal Service. Please provide copies of these documents to the Subcommittee and the current status of your negotiations with the U.S. Postal Service on the application of veterans preference for preference eligibles in the U.S. Postal Service.

I understand the Office of Personnel Management has resumed responsibility for affirmative action programs for veterans which were handled by the office of Equal Employment Opportunity in the previous administration. Please review the procedures that have been established to carry out this responsibility.

The rules of the Committee require that 75 copies of your testimony be provided to the Committee Clerk at least 48 hours in advance of the scheduled hearing.

Sincerely,

BOB EDGAR,
Chairman, Subcommittee on Education, Training and Employment.

We also welcome representatives of the veterans organizations. Some have elected to delay their testimony and appear when the Department of Labor is rescheduled. For those of you who are with us today, please feel free to direct your testimony and comments to areas coming under the jurisdiction of both the Office of Personnel Management and the Department of Labor.

Our final witness will be Mr. Gerard Boller who will be testifying with respect to veterans' rights in reduction-in-force procedures at the Civil Aeronautics Board.

The Veterans Preference Act of 1944, as amended, grants certain persons special consideration in Federal employment. Most veterans who served on active duty in our Armed Forces prior to October 15, 1976, are considered "preference eligibles" for purposes of Federal employment; such as, examinations, appointments, and retention during a reduction in force.

The Veterans Preference Act of 1944, as amended, is based on the belief that those who served in the Armed Forces in time of war or national peril rendered a special service to the Nation which entitles them to special consideration.

In this time of increasing unemployment in the private sector and reductions in force in Federal employment, we must be particularly vigilant and insure that veterans are receiving the preference and assistance in employment to which they are entitled.

The principle of veterans preference in Federal employment and assistance in job placement in the private sector is firmly established. It seems appropriate that we once again affirm our support for this principle on this day before Veterans Day.

There is an old lament which says:

God and the soldier all adore
In time of danger, not before.
The danger gone and wrong things righted,
God is forgotten, the soldier slighted.

We on this committee feel bound to insure that Americans who have served in our Armed Forces in defense of freedom all over the world are never slighted.

Dr. Devine, will you please come forward and present your testimony.

STATEMENT OF DONALD J. DEVINE, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Dr. DEVINE. Thank you very much, Mr. Chairman, for inviting me to appear and to discuss our recent initiatives to improve employment opportunities for veterans.

As you know, during the past 7 months that I served as Director of OPM, we have taken major steps forward in the protection and the extension of the rights of veterans in the Federal service.

I might quote from a recent VFW publication that says that my public position on veterans' affairs "signals better job opportunities for veterans within the Federal Government," and that is true.

The Reagan administration and OPM in particular are committed to strengthening veterans' preference in the Federal Government. We intend to live up to the spirit and letter of the Veterans' Preference Act of 1944, as amended. In our view, both veterans and the Government benefit from veterans' preference.

One of my first trips to Capitol Hill was to testify before this subcommittee in favor of extending the veterans readjustment appointment authority program. On November 3 the President signed this legislation into law and OPM stands ready to implement it.

The steps we have taken to go forward with this include revising our guidance and regulations to agencies, and providing veterans with information on VRA extension through our network of Federal job information centers.

Although there have been cutbacks in the Federal Government, we have not reduced the rate of appointments under the VRA authority.

Our most recent data on veteran hiring shows that 8,677 VRA hires were made in the first half of fiscal year 1981. Approximately 40 percent of these were minorities and 8 percent were women. Since the program began a decade ago, more than 170,000 veterans have entered Government service through the VRA.

In addition to VRA we are very concerned about the 30 percent or more disabled program. During the first half of fiscal year 1981, 1,108 severely disabled veterans were appointed; 163 were selected directly under this program. This compares favorably to fiscal year 1980, when 1,733 veterans with 30 percent or more disability were hired for the entire year.

OPM has assumed responsibility also for oversight of equal employment programs for hiring, placement, and advancement of disabled veterans in the civil service.

At the insistence of this committee the authority to oversee this hiring has been taken back from EEOC. We have met with representatives of EEOC, and they have now accepted our interpretation

that OPM will monitor affirmative action programs for disabled veterans in the Federal Government.

As the subcommittee is aware, OPM has general oversight responsibility for Government-wide compliance with civil service laws, rules, and regulations. As part of this process our Agency Compliance and Evaluation Unit, which has the major responsibility for this oversight, will this year monitor performance under the VRA program and the noncompetitive hiring authority for veterans who are 30 percent or more disabled.

I know the subcommittee is also interested in enforcement of these activities under the Postal Service. Even though the Postal Service for most purposes now is not under OPM's authority, it clearly is, as we read the law, for purposes of veterans' preference.

Recent discussions with the Postal Service have resulted in its moving forward to identify those people who are 30 percent or more disabled and who were passed over for medical reasons. All these cases will be forwarded to OPM, and this will give these individuals their right for appeal.

I might add that the Postal Service has been very cooperative during this period of negotiation and we expect that they will pursue this activity so that we can identify these individuals.

We are also very interested, as your opening statement mentioned, in enforcing veterans' preference in reduction-in-force situations. During a reduction in force each employee is ranked into four factor groups:

First, tenure or seniority; second, veterans' preference; third, length of service; and fourth, current performance rating.

Each tenure group is then divided into three subgroups. These subgroups include, in descending order of the retention standing afforded them:

First, preference-eligible employees who have a compensable service-connected disability of 30 percent or more;

Second, preference-eligibles who are not 30 percent or more disabled; and

Finally, nonpreference eligible employees.

In addition to these advantages, veterans who are 30 percent or more disabled have the extra protection of the right of appeal to OPM under section 3504(b) of title 5 in situations where the employing agency determines that the veteran cannot be retained because of the physical requirements of a job position.

As you can see, veterans receive protection beyond that given to similarly situated employees. This policy is fully consistent with the law and, in my view, represents a fair and effective system.

I would also like to point out that special efforts are being made to assist displaced employees, whether veterans or not, in finding alternative employment, in both the public and private sectors.

President Reagan has expressed his personal support of these programs, calling placement efforts a "Government-wide imperative."

Thus far we have been successful in assisting many displaced employees, and I am optimistic about the situation for even those very few veterans who will be affected by reductions in force.

You have asked us for our figures on the impact of reduction in force on veterans. We are still in the process of obtaining those fig-

ures. But as soon as they are available, we will be happy to share them with the subcommittee.

Another program in which we have instituted veterans' preference is the Presidential management intern program. This is one of the special hiring authorities which recruits individuals out of graduate school for special placement into fast-track positions in the Government, those positions leading to management. It is a relatively small program in terms of the number of hires, and this is probably the reason why no one has really looked at it before.

George Skypeck, a highly decorated Vietnam war veteran, brought to my attention the fact that veterans' preference was not being applied in all phases of the selection process for PMIP. We have now informed the universities that are involved in this program that we expect them to enforce veterans' preference. We also have in preparation a new Executive order which will formally write veterans' preference into the Presidential management intern program.

In addition to all these steps, our regional offices, as well as Washington, have an individual assigned responsibility for veterans' employment matters.

I think that the record that we have established in OPM in the few months since we have been here may mark a major turnaround in the view that veterans have had of the Office of Personnel Management.

Tomorrow we are going to honor American war heroes on Veterans Day. As a Nation we should be proud to salute our veterans for their service and personal sacrifice for our country.

At OPM we intend to do our part to pay back in some small way the enormous debt the whole country owes to its men and women who have served in military uniform.

Mr. Chairman, veterans' preference is an integral part of the Federal Government's merit employment system and we are committed to it.

I appreciate the chance to testify here this morning, and I would be very happy to answer any questions that you may have.

[The prepared statement of Dr. Devine appears on p. 83.]

Mr. EDGAR. Thank you, Dr. Devine, for your statement, and I appreciate hearing your words, particularly those of strong support of the veterans' preference issue.

I wonder if we could begin with you giving just a simple explanation of what the Veterans Readjustment Authority is.

Dr. DEVINE. Well, the Veterans Readjustment Authority is a special noncompetitive appointment process for Vietnam-era veterans to enter into the competitive service. This means they don't have to go through the same processes as an individual off the street. It is a special program to recognize the service of veterans to their country.

Mr. EDGAR. Were any of these VRA appointments made after September 30, 1981, and prior to November 3, 1981, when the President signed into law the new legislation, which could have been made under the provisions of Executive Order 11521?

Dr. DEVINE. I don't have specific information on that, but I am sure that there were. The authority does exist under the Executive order, but I don't have any figures.

Mr. EDGAR. Can you provide that for the record?

Dr. DEVINE. I will be happy to.[1]

Mr. EDGAR. It is also important for us, in providing that information in the record to answer the question, what is being done for veterans who applied for VRA appointments during this timeframe who did not qualify and also the question, are they being notified that with the enactment of Public Law 97-72 they may once again qualify for VRA appointments.

Let me ask you another question with relationship to the VRA appointment program. What appeal rights does a veteran have who is hired under the Veterans Readjustment Authority program if he is dismissed from his position?

Dr. DEVINE. He has the right to appeal to the Merit Systems Protection Board after his first year of employment. If his agency has a grievance procedure, he can appeal through it.

Mr. EDGAR. The American Legion, who will appear before this subcommittee later today, makes this statement about the VRA program:

> We believe the program is underutilized by agencies with some agencies even not knowing about it. Veterans are hired at low-entry-level positions rather than at allowable GS-7 level. There is a high rate of voluntary terminations and a lack of adequate monitoring.

It is further stated that these have been discussed with you and you share the American Legion's concern. Do you agree with the American Legion's comment, and what is your response to this particular segment of their testimony?

Dr. DEVINE. Yes, as they say, they have discussed this matter with me. I think my own personal view is that it is a question of communicating the program. I don't find active resistance as a general reaction to the program. I think we have to, and we have been trying, to get the word out more broadly. As with any program, once it is instituted, people need constant reminders about it. One thing we have tried to do is to publicize the program and to make the agencies more aware of it.

We have discussed it with agency personnel and the central agency personnel directors to get the word out, and I think that we have to keep up our efforts to make individuals aware of the program. A program that has been around for awhile especially needs reenforcement, and we intend to see that it continues.

Mr. EDGAR. Perhaps in light of the passage of the legislation last week that would serve as an impetus for additional education of the agencies.

Dr. DEVINE. That is a very good point.

Mr. EDGAR. Veterans are supposed to get special consideration in hiring, not just within Federal agencies but also with those who have contracts with the Federal Government. Does OPM monitor the compliance of Federal veterans' preference as it relates to contractual relationships?

Dr. DEVINE. It doesn't as far as I am aware. Let me check it out. So I can put it on the record.[2] We in general don't have supervision over contractors.

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[1] See p. 89.
[2] See p. 91.

Mr. EDGAR. What you are saying is if a large contract is let by the Federal Government you don't believe that your agency has compliance authority over that contract?

Let's take an example, the Federal Government next year, or this year, 1982 fiscal year, is going to spend $189 million on the Tennessee-Tombigbee waterway, building a little project from Pickwick, Tenn., to Demopolis, Ala. We are going to spend $20 million a month of the taxpayers' money.

They are working 24 hours a day to move more dirt than was moved in creating the Panama Canal to build this 8-lane waterway down to the Gulf. Lots and lots of employees are going to be hired in that project with Federal dollars. Isn't there some responsibility for your agency to make sure that contractors who receive that Federal dollar are complying with a veterans' preference category?

Dr. DEVINE. It is a legal question. My staff tells me it's the Department of Labor's responsibility, through the Federal Contract Compliance Office.

Mr. EDGAR. So the Department of Labor would have responsibility over that and you would have responsibility only over the Army Corps of Engineers——

Dr. DEVINE. Yes, the Federal employees.

Mr. EDGAR. You mention in your testimony your work with the Post Office in compliance. This subcommittee is very concerned by the hiring and retention procedure of the Postal Service as they apply to veterans. I note in your testimony that OPM is going to soon conduct audits of the Postal Service.

Would you give us some more information on this. In what areas do you have clear legal authority to conduct such an audit?

Dr. DEVINE. Well, for veterans' preference, in all its aspects. It is very clear that the law retained that authority when it otherwise separated the Postal Service from the supervision of OPM, the old Civil Service Commission. We have no doubt about our authority and the Postal Service doesn't contest it. I understand that at one time it did, but in our current talks we haven't had any resistance.

Mr. EDGAR. And you plan to conduct the audits in what way?

Dr. DEVINE. Through our regular auditing process. We will use the compliance and evaluation unit.

Mr. EDGAR. You state that OPM understands that the Postal Service is in the process of making a determination of how many postal employees veterans are 30 percent or more disabled. We had the Post Office before this subcommittee recently, and I wonder if you have followed closely the process that they are using to determine the number of 30 percent or more disabled veterans they have hired.

Dr. DEVINE. Are you referring to the ones that they may have passed over?

Mr. EDGAR. No, I am referring to page 4 of your testimony, the second paragraph.

> It is our understanding the Postal Service is in the process of identifying records of those veterans who are 30 percent or more disabled and who have been passed over for medical reasons.

Those are the, "not passed over period," but because of medical purposes.

Dr. DEVINE. Yes. They are conducting this search under procedures that were evaluated by my staff and were approved by them. I don't personally know the details.

Mr. EDGAR. We received testimony, particularly from the Disabled American Veterans, that the procedure was somewhat intimidating and also made some of the disabled veterans a little bit nervous about the process. They were concerned that the veterans organizations were not brought in and communicated with as the Post Office sent out their letters. There was some indication that the Post Office was not going to get full compliance with their requirement or request to find out who may have been passed over on this 30-percent requirement. Are you aware of that controversy at all?

Dr. DEVINE. I did know that there was some problem with the implementation, but the basic procedures seemed fair to our people that evaluated them. I was not aware of the degree to which groups were or were not brought into the early part of the process. I think that would be something to talk to the Postal Service about.

Mr. EDGAR. You might monitor that. I do not think it was anything intentional on the part of the Postal Service, but there was friction between the veterans' organizations and the Postal Service over the circular that they sent around to their employees. It seemed to me that if we are going to keep in touch and in tune with what the Postal Service is doing with veterans' preference particularly as it relates to disabled veterans and those who are being passed over, it would be important for you to at least have some indication over the controversy and whether or not it could be resolved by better communication with the established veterans' organizations prior to the sending of the circular.

Let me change the subject just a little bit and go over to the area of outreach. On page 2 of your testimony you refer to a network of Federal job information centers. How many of these centers do you have and is there a person in each center whose responsibility it is in dealing with veterans who seek information and assistance or is it just one of many duties assigned to one or more persons within those centers?

Dr. DEVINE. It tends to be one of many duties assigned to persons within those centers. We also have an individual in each of the regional offices. These people are highly skilled and specialized in the area of veterans' preference.

Mr. EDGAR. So you are referring to only 10 centers, in each of your 10 regional offices?

Dr. DEVINE. We have about 60 job information centers and 10 regional offices, plus our Washington area office. Those in the job information area can answer the basic level questions and can refer more complex cases to the person in the regional office.

Mr. EDGAR. Dr. Devine, the committee has heard from veterans who served with the Public Health Service during the Vietnam era. Some qualify for veterans' benefits under title 38 but do not qualify for veterans' preference under title 5. OPM has ruled that service during the Vietnam era does not qualify as wartime service because it was not during a declared war, and this is from the U.S. Public Health Service. Would you comment on this?

Dr. DEVINE. That is a question where we feel that the law is very clear and that we don't have the authority to extend it there. Where we believe we can extend it, we have; if the law restricts us from doing it, we can't. It would need some kind of legislative solution, in our opinion.

Mr. EDGAR. Can you state chapter and verse of the law which prevents you from giving veterans' preference category to these persons?

Dr. DEVINE. I can provide that for the record.[1]

Mr. EDGAR. Do you feel that the Vietnam war was a declared war?

Dr. DEVINE. That is a very technical question, and I am professor of political science in my other profession. I will say that it was not.

Mr. EDGAR. You can understand, though, the frustration of those who served during that period in terms of the kind and nature of the conflict.

Dr. DEVINE. Absolutely, and I think that is one of the major mistakes we made, in not declaring war.

Mr. EDGAR. This question relates to aliens. Veterans who are not citizens of the United States are prohibited from applying for employment in the Federal Civil Service. And I can understand why most aliens would not be allowed to compete with citizens for Federal jobs. Perhaps exceptions should be made for aliens who served in the Armed Forces of the United States during a war or during the Vietnam conflict. Do you have any comments on that?

Dr. DEVINE. Of course that would be a change in the law and I would have to talk it over in the executive branch. But frankly I had considered that in my other career that I just mentioned. I haven't thought of it for awhile, but I appreciate your bringing it up. I will take a close look at that.

Mr. EDGAR. We have received a call from several veterans who served who were not citizens of the United States, and they were concerned about what they felt was some prejudicial treatment of them, I think it might be something you would want to consider.

The Office of Personnel Management has mandated under Section 2014(d) of title 38 to provide a detailed report on the Veterans Readjustment Authority program. At least semiannually. Section 3112 of title 5 mandates a similar report on the special hiring authority for 30-percent-or-more disabled veterans. The subcommittee has not received these reports since March of this year. When do you anticipate that OPM will be updating those reports and when will they be available for the committee?

Dr. DEVINE. Well, as a matter of fact I received a report on that a few days ago which our staff wanted to forward to you in anticipation of that question, but frankly the data were all from periods earlier than the data you already have and I didn't see any sense to meet a formal requirement by submitting information you already have.

We are working on it. We have had tremendous demands made on us since we instituted the personnel data file. We will get the

[1] See p. 103.

data you requested as soon as we possibly can. It is very much on my mind.

Mr. EDGAR. I appreciate that.

The Veterans of Foreign Wars statement which is prepared for today, to be presented before the committee, questions the ability of OPM to enforce Affirmative Action programs. Since your Office of Veterans' Affairs has a staff of three career employees and one part-time employee, will the Office of Veterans' Affairs be responsible for Affirmative Action programs for veterans, and how will you handle this particular aspect of your charge?

Dr. DEVINE. We are still working on how we are going to administer it fully. Part of it will be done by the agency compliance and evaluation unit [ACE] which has, even in this period of very tight budgets and general reductions within OPM, increased its staff. ACE will play some part in this process. We haven't fully determined how we are going to work out all the aspects. We just reached agreement with the EEOC in the last month. We are working for it. Obviously the veterans' office itself couldn't handle the whole burden.

Mr. EDGAR. Can you isolate the number of employees that will be necessary to comply with that?

Dr. DEVINE. I don't know now.

Mr. EDGAR. I am interested in the effort made by OPM to assist displaced employees in finding alternative employment. Are veterans who are affected by reductions in force given preference in this assistance, and how many Federal employees who are veterans have been successfully placed in alternative employment under these assistance programs?

Dr. DEVINE. As I mentioned, we don't have those figures.

The answer to your first question, whether they get preference in terms of placement, is no, they don't. Our placement efforts are not efforts in terms to require employment. If we are talking about our voluntary placement program we make the information available for everyone. However, for the mandatory aspects of the program veterans would receive veterans' preference.

Mr. EDGAR. Let me ask you a question that relates to that whole issue. It has been brought to the attention of the subcommittee that a unique situation has developed as a result of the early sunsetting of the Civil Aeronautics Board. This has resulted in simultaneous transfer and termination of functions in the CAB. It is my understanding that there are veterans in nontransferring jobs who are prohibited from competing for jobs that are transferring. Would you discuss the procedures that are now being used relative to veterans in terminating and transferring functions?

Dr. DEVINE. The current law was set up to protect veterans by giving them retention rights in an agency when a function was transferred. The assumption was that it was better to stay in the parent agency than it was to transfer to the new agency, and I guess it was based on a philosophy that no Government agency would ever be terminated. Following a narrow interpretation of the regulations would have resulted in veterans not being transferred with a function, and instead remaining in the agency which was to be abolished.

As a result of my review of the law, I made a variation on July 29 under civil service rule 5, which allows me to make variations when a regulation works against its spirit. The variation was granted to the Civil Aeronautics Board and may be granted to all agencies in similar circumstances.

We are also working on a proposed legislative solution which is what really is necessary.

Mr. EDGAR. It seems to me that precedent will be set in terms of how veterans are treated and preference applied in the CAB case. We all know that other agencies may be dismantled and procedures put in place now at CAB will probably be used later at those other agencies which may be terminated. I think that the problems that rise at the CAB deserve a great deal of thought and careful consideration.

I have before me your letter of August 5, 1981, to the chairman of the committee, Mr. Montgomery, regarding the rights of preference-eligibles employed at the Civil Aeronautics Board, and without objection I request that a copy of your letter appear in the hearing record at this point.

[The following was received for the record:]

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., August 3, 1981.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This replies to your letter of July 9, 1981, regarding the rights of preference eligibles who may be involved in the pending transfer of functions of the Civil Aeronautics Board (CAB). We share your concern for the rights of veterans and, consequently, we recently took administrative action at CAB's request to assure that CAB's veterans are accorded the protection intended by the Veterans' Preference Act of 1944.

Under current law (Public Law 95-504), CAB is scheduled to end operations on January 1, 1985. On that date, certain functions and employees would transfer to other agencies. Remaining functions would be abolished and remaining employees would be separated by reduction in force. There are proposals (H.R. 3562, H.R. 4065, S. 1425, S. 1426) pending in Congress that would advance the termination date of CAB to as early as 1982. CAB staff has advised that under its tentative plans for closing down, all of the agency's 30 percent compensably disabled veterans and all but 28 of 150 other preference eligibles would have transfer rights.

The rules governing CAB's termination are set out in the transfer of function and reduction-in-force regulations (5 CFR Part 351). These are based on the Veterans' Preference Act of 1944, as amended by the Civil Service Reform Act of 1978, codified in chapter 35, subchapter I, of title 5, United States Code. Copies of the law and implementing regulations are enclosed.

The transfer of function right is contained in section 3503 of title 5. It provides that when a function is transferred from one agency to another, competing employees in the function transferred are to be given the opportunity to follow the function. Employees who are not in the function transferred are given no right under the law to transfer.

When a transfer of function occurs, the number of employees involved usually exceeds the number of positions to be transferred. Under the regulations, employees whose work in the function is the basis for their grades or the majority of whose time is spent on the function automatically transfer (5 CFR 351.303(c)). Those employees in the function whose grade-controlling duties or the majority of whose time is not spent on the function are selected for transfer on the basis of their retention standing (5 CFR 351.303(d)).

In these transfer situations, employees generally prefer to remain at their agencies rather than transfer to another agency where their functions could disappear and they could be subject to reduction in force (RIF). To extend a measure of protection to preference eligibles, our regulations provide that employees with lowest retention standing would transfer first. This is consistent with the intent of the Veter-

ans' Preference Act in that employees with veteran preference are given the advantage by remaining at their agencies.

In the case of CAB, however, transfer with the function is the only protection since remaining functions in CAB will be abolished and remaining employees will be separated. To assure that preference eligibles at CAB are protected, I approved a variation to the regulation so that they will have first rights to transfer.

We recognize that our regulation does not cover those unusual situations where there will be no continuing functions, such as in CAB. We are now studying changes to the regulation to assure that in all transfers of function preference eligibles receive the full rights to which they are entitled. In the meantime, we have notified all agencies of the variation granted to CAB. Any agency which has a similar situation will receive similar authority.

As for those CAB employees who work with functions which are to be abolished and therefore have no transfer rights under the law, they will be separated by RIF. Employees in transferring functions who are surplus will also be separated. For some time now, CAB has had underway a special placement program to help find continuing employment elsewhere for these employees. At the same time, hiring restrictions have been in effect to give current employees the opportunity to move to vacant positions in which they may acquire transfer rights. The agency is also participating in interagency placement programs, coordinated by this Office, aimed at finding new jobs for Federal employees who are facing RIF's throughout the Federal establishment. I hope these efforts will lessen to a great extent the impact of the CAB shutdown.

If there is any further information I can provide, please contact me.

Sincerely,

DONALD J. DEVINE, *Director.*

Mr. EDGAR. When an agency is abolished or ended I understand the rule is now that veterans have the first right of transfer rather than staying on the job until the last. However, what rights do veterans-preference eligibles have when an agency's function ends and are not transferred?

Dr. DEVINE. If the agency is abolished, the individuals are separated, and then it becomes our obligation to try to place those individuals, either within the Federal Government, the private sector, or State or local government. And as I mentioned, the program is gearing up.

We have now placed over 1,000 individuals and we have referred many, many more. We don't always get results, but it is our obligation to try to find other positions within the Government. We expect to place a very high percentage of individuals affected that way. We gave special attention to the Community Services Administration, and now CAB. This is because there were so many individuals affected in those agencies.

So our placement program is the next step for those who would remain behind in a position in an agency that was actually abolished.

Mr. EDGAR. In a speech to The American Legion at their national convention on September 1, 1981, you indicated that you had granted a special waiver to the Civil Aeronautics Board allowing veterans to be transferred to another job, even though their agency is being abolished. Does this waiver, in your view, provide sufficient protection and preference for veterans caught in the complexities of the abolishment of the agency?

Dr. DEVINE. Well, as I mentioned, I think we need to change the regulation and the law so it is clear that the veteran with preference gets the more advantageous position whether it is the transferring or the remaining. So I think we do have to go beyond just a variation. That's not really a good way to set overall policy.

Mr. EDGAR. I have a couple of extra questions if you will bear with me.

But first I would like to recognize the fact that we have been joined in the hearing room by Ridley High School students who are visiting the Capitol today to find out how Congress works or how it doesn't work. They happen to be from my congressional district. I would like to welcome them and apologize for not having time and the ability to spend some time talking with them about the process.

Perhaps I can join you at your classroom at some point, but we appreciate your coming to Washington and getting hands-on experience about how the legislative process works. I hope you enjoy your visit.

Mr. Devine, I have a weekly highlight submitted by the VA staff office to the Administrator of Veterans' Affairs, dated October 7, 1981. Let me read it for you.

> On the Friday immediately preceding the October 4th pay increase OPM notified VA and other agencies by telephone that employees on special salary rate would not receive the 4.8 percent pay increase received by the General Schedule employees. This eleventh hour decision by OPM departs from the OPM past practice of many years in granting the increase generally to all employees, including those on special rates authorized by OPM for recruitment and retention purposes.
>
> With this decision each of the approximately 4,000 VA special State employees will have his or her rate set at the nearest rate on the new pay schedule which does not result in a pay loss. This process will result in pay increases but less than the full 4.8 percent the employees had been expecting.
>
> We are working closely with the Comptroller and the Office of Data Management and Telecommunication officials to assure that necessary payroll and personnel system changes are accomplished.

Would you please explain to the subcommittee why OPM applied this authority to the very employees, the VA, and I assume other agencies, are having the most difficulty in recruiting and retaining. It is my understanding that OPM and its predecessor, the Civil Service Commission, have had this authority for 12 to 14 years but had never applied it until this last cost-of-living increase.

This will undoubtedly exacerbate the VA health care staffing problems.

Further, if another study has to be made to determine the future pay level of these employees such a study in each locale will cost as much if not more than any savings that would be realized at these employees' expense.

Can you comment on that?

Dr. DEVINE. Certainly. In fact it relates back to a comment I just made to a previous question, that a variation from a general procedure is not a good way to conduct business.

The Code of Federal Regulations says that the Office of Personnel Management shall not give an increase in special pay until a study is done. A study will be done in any event. The cost consideration is irrelevant because in either case a study has to be done. And after the study is done an adjustment is made if the full increase is to be passed along.

You are correct that for the past 10 years the Office of Personnel Management, and the Civil Service Commission before it, didn't pay any attention to its regulation. They got so much in that routine that for the last several years they didn't even publish the variation which they are required to by regulation and by law.

Ten years of not following the procedures wasn't the way I wanted to go, so I took a different position.

The Code of Federal Regulations is very clear on this. The pay increases will not be passed along until a study is done. And especially in light of the fact that we hadn't even followed our own procedures in previous years I felt it would be inappropriate to do this. And the intent, even the clear wording, of the regulation is very clear.

Mr. EDGAR. If I may interrupt you, do you think any of the studies would come back and say that 4.8 percent given the high inflation we have had over the last year would be an enormous contribution to these employees?

Dr. DEVINE. My staff made the recommendation that I grant the variation again. So they were leaning in the other direction. And when I asked, they admitted that a certain percent, which I don't remember offhand, would come back below the 4.8 percent raise. That certainly was a part of my evaluation when I made the decision.

Mr. EDGAR. It is really tough for us, particularly within the veterans' health care system, to recruit and retain some of these title 5 positions, and it is even harder when they see this kind of two-step process. I understand what the regulation is and the fact that you operate within what you consider was your overview and prerogative.

I guess the two questions that we are asked most often is, why did it happen so late, that is, in the 11th hour of the process? And second, was any consideration made as to the impact that it might have on the agency itself?

Dr. DEVINE. It certainly took into effect the impact. The studies are lined up to be done in the importance of their criticality in terms of recruiting and retention problems. That certainly was taken into account, but it seems to me that we have a regulation which is very clear.

The reason it wasn't done earlier is, frankly, one of the goals I set after being on the transition for 3 or 4 months. In OPM there is a general reluctance to follow laws and regulations. It is important to me as a manager that we follow those rules. I think it is directly applicable to some of the earlier veterans' questions we talked about.

The past administration of in this agency felt that it could apply or not apply veterans' preference under the law, when it felt like it, on whim. I think it is absolutely essential that we follow the law, rules and regulations that we act under. To me it is much more of a last-minute decision to write a variation of the law or regulation. An authority that is given to an agency, has to be given with great discretion, and not on a regular basis.

To me the fact that someone publishes variations for 10 years is preposterous. If you don't like the regulation or the law, the law or the regulation should be changed. You should not write a variation one year after another for 10 years That isn't a rule of law as I understand it.

Mr. EDGAR. Despite the fact that you acted the way you did and according to your principles and regulations, would you recommend change of that particular procedure so that those under spe-

cial pay receive the same cost-of-living increment that those who are under the regular civil service procedures receive?

Dr. DEVINE. I don't know. I think it is something that we should look at very closely, and we are.

The special pay raise, as the term implies, is special. It is very difficult to decide when special rates should be granted. We are in an era in which pay raises are less than we'd like them to be and less than the legal definition of comparability. They are less because of the economic conditions that we are in. When is the differential between the Federal salary and the private-sector salary enough to justify a special rate? It is a more-than or less-than question.

The whole area of special rates is an extremely complex area. They are paid higher than the general schedule rates. They are already being given special treatment. I recognize and am very aware and sympathize with the retention problems of the agencies, but I have an obligation as head of the civil service to protect the integrity of the General Schedule Classification System.

To the degree that we keep making special pay rates we undermine the whole idea of a uniform competitive service divided into grade rates and occupational categories.

For years people have talked, especially in the academic world, about getting rid of the General Schedule System, and moving into some rank-in-person system with special salaries given for individual occupations. When we are talking about that, we are talking about changing the whole nature of the civil service. I don't want to overly complicate the problem, but the special pay rate is related to everything else and the degree to which you give them or don't give them really gets at the whole question of the whole type of system we have.

The kind of system we have is based on paying individuals in the same grade ranking the same pay. Special pay is a relatively new development and one that we frankly have not been able to integrate into the system. The problem is that special rates are incompatible with a uniform rate system.

Now it is a very complex question as to the degree to which special pay should be increased. I think the reason that the regulation was put in there—that is, that the study should be done—was the recognition that the rest of the general schedule is not getting the same thing at the same level as set by the standards of the classification system. It was special and it should be justified.

Now I am not inflexible on whether that should be. I have not formed a final opinion, but there is no question that those with special pay rates are put at variance with the other persons in the same grade of the general schedule.

Mr. EDGAR. Are there any OPM officials under these special pay provisions?

Dr. DEVINE. Not that I am aware of.

Mr. EDGAR. The Postal Service bargained away the VRA program even though the program is discretionary. Do you feel that the Postal Service had the right to negotiate away a Federal law in labor negotiations?

Dr. DEVINE. I can't comment on their legal authority. I just don't know.

Mr. EDGAR. Let me shift gears one more time. Health benefits for Federal employees are not a veterans' program but they are, of course, of much importance to veterans and their families, particularly those who have a veterans' preference and who work within the civil service system. As the Director of OPM you have a great deal of authority over this program. I have two questions I would like to ask you about your responsibility in this area.

First, is there any truth to the rumor that Blue Cross and Blue Shield is planning to pull out of its participation and coverage for Federal employees, health care coverage.

Dr. DEVINE. Not under the contract that we have negotiated with them. There are some circumstances under which they have advised us that they might not be willing to participate in the Federal employees health benefits program again. But unless there is judicial or legislative intervention which would supersede the contracts that we have negotiated with them and the other 124 out of the 126 FEHB carriers, I don't foresee any likelihood that Blue Cross or Blue Shield will not remain in the FEHB program. I expect Blue Cross and Blue Shield to remain a viable participant in that program.

Mr. EDGAR. When do you anticipate an open season for Federal employees to change or continue their present coverage?

Mr. DEVINE. I have postponed that, given the uncertainties both in the legislative and in the judicial arena, especially in the judicial.

It is our position that although we have contracts negotiated, it would be imprudent to the highest degree to proceed as if we were not in court when in fact we are. So I just don't see any way that we can have open season immediately. I would hope that we would be able to have it before the next scheduled open season a year from now, but I like your kind comments about my authority over the program. When the judiciary steps in, one wonders how much authority one has over the process.

Mr. EDGAR. I have watched some of the press reports in this area and I am particularly concerned about the so-called reduction in mental health benefits and psychiatric benefits under some of the health plans. Let me just give you a personal comment from one Member of Congress.

It occurs to me that we undersell the importance and the value of mental and psychiatric and psychological services as related to the total health of the individual. It is important to recognize that both physical and mental health is critical to one's well-being.

I am nervous about what I see as some reduction in the whole area of caring for the whole person, both physical and mental. I think not only for the veteran that we have employed within the Federal system but all employees, whether they are on Capitol Hill or whether they are within the agencies of the Federal Government. It is important to have high-level quality benefits in both physical and mental categories, and I would hope that as you are thinking through the direction for the health package in the future that you would keep in mind the value and the necessity of providing health services to the whole person, both physical and mental.

I am not prepared to get into a lengthy and detailed discussion of that with you, but I just feel strongly that it is important for us to

have the best quality health care package possible for all of our Federal employees, and I think that Members of Congress, both Democratic and Republican, conservative and liberal, will be interested in trying to maintain that high level of quality care.

I can tell you that on Capitol Hill, as well as within discussions within my own family, a number of Members of Congress have been confronted with the reduction in what they consider important benefits that Federal employees should receive.

Let me ask you a final question about furloughs. According to recent press reports Federal agencies are studying an OPM furlough plan as one possibility to come within the budget limitations for fiscal year 1982. This would be an option to meet the White House orders to cut spending by 12 percent during fiscal year 1982.

As I understand it a furlough action against a veteran is an adverse action. Accordingly, a veteran has certain rights as granted by the Veterans' Preference Act of 1944, as amended. What would be the right of veterans' preference eligibles if a furlough plan is instituted by OPM?

Mr. DEVINE. Oh, we would not institute a Government-wide furlough plan, No. 1.

Second, furloughs are provided for in the United States Code and in the Federal Regulations. Furloughs are a recognized means of dealing with shortage of funds or shortage of work.

A furlough policy can often be the most humane way of dealing with a situation where funds are insufficient or where work is not sufficient.

A furlough, and you may have seen the results of a poll, not necessarily scientific but taken by the Washington Post "Federal Page", which showed that most Federal workers would be willing to take a furlough if it meant protecting their fellow workers from having to go through a reduction in force.

Naturally, furloughs are an adverse action. They are a procedure that one would only undertake if there were no work or insufficient money. Veterans and all employees have all of the protection of the civil service system for adverse actions, and most particularly their appeal to the Merit System Protection Board and in those cases where union agreements cover the same, through grievance procedures.

There are very strong protections involved for any abuses in this area, but I don't think we should look at furloughs as necessarily a bad thing. One should compare them to the alternative which is separation.

And I think certainly from a personnel perspective a furlough can be a much preferable solution.

Mr. EDGAR. Do you have any anticipation in furloughing any VA personnel or have you seen any plans to furlough any Veterans' Administration employees?

Mr. DEVINE. No, I have not.

Mr. EDGAR. I appreciate your testimony this morning.

I apologize for the lengthy nature of the questions, but it is important for this particular subcommittee to have oversight responsibilities in relationship to OPM's responsibility of monitoring veterans' preference within the agencies and the VRA program as

well as some of the other veterans' programs, and we appreciate your testifying today.

We may have further questions submitted by our members and we will submit those by letter and we will look for your accurate response,[1] and we wish you well in your work.

Thank you for coming.

Mr. DEVINE. It is a pleasure to be here.

Mr. EDGAR. Our next witness will be Paul S. Egan, assistant director of the National Legislative Commission of The American Legion. He is accompanied by Mr. James Bourie, director of economics, for The American Legion.

Gentlemen, we appreciate your coming today.

STATEMENT OF PAUL S. EGAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION, ACCOMPANIED BY JAMES G. BOURIE, DIRECTOR OF ECONOMICS, THE AMERICAN LEGION

Mr. EGAN. Gentlemen, I want to introduce our witness this morning. As you have already recognized Jim Bourie, our economics director, we will proceed.

Before beginning I am sure you will note that many of the remarks contained in our statement address themselves to issues associated with the Department of Labor. We hope that you will agree that those remarks are as germane today as they will be in the future when you hear from Mr. Plowden, and we would ask that the full statement be included in the record.

Mr. EDGAR. Let me just say that I appreciate your covering both subjects in your testimony and part of your statement will be used to prepare questions when the Department of Labor does appear before the committee, so it will not be in vain that you have spent the time to analyze both programs at this point.

Mr. EGAN. Thank you.

STATEMENT OF JAMES G. BOURIE, DIRECTOR OF ECONOMICS, THE AMERICAN LEGION

Mr. BOURIE. Mr. Chairman, we certainly appreciate the time in allowing us to present our views on veterans employment and training programs. As we are disappointed that the Department of Labor will not be represented here today to respond to our questions, the statement will indeed be brief.

However, we would like to fully develop our statement at the hearing tentatively set for November 19.

Mr. Chairman, it is very timely that the issue before this subcommittee is veterans employment and training as tomorrow marks this Nation's remembrance of those who served their country, and ironically the Department of Labor just announced an 8-percent unemployment rate.

Veterans indeed are quite familiar with high unemployment rates. A 9-percent rate for younger Vietnam-era veterans, an estimated 30-percent rate for disabled veterans, and approximately a 90-percent rate for paralyzed veterans. However, we believe that

[1] See p. 89.

these statistics grossly underestimate the correct dimension of the problem as thousands of Vietnam-era veterans have simply dropped out of the employment and training system.

But we are not speaking to the issue of cold statistics but to the hundreds of thousands of individuals who honorably sacrificed for their country and who feel it is time finally for this country to sacrifice for them.

The results of our Government and private surveys regarding the veteran conclude that employment/training remains the paramount issue and that for the most part for a variety of reasons the system designed to address those needs has failed.

For example, veterans were at no time a viable part of CETA, in spite of the fact that Vietnam-era veterans are a specific target group.

Also there are illogical eligibility requirements that preclude over 90 percent of all veterans from programs and prime sponsors perceive Vietnam-era veterans as losers and are just not concerned with their employment and training needs.

The Veterans' Employment Service has no real influence over the respective States' veterans job service mandates, veterans are not eligible for UCX (Unemployment Compensation for Ex-service Personnel) benefits and VAOJT (Veterans Administration On-The-Job Training) is nearly nonexistent.

Further, nationwide veterans' community based organizations which provide service and outreach for hundreds of veterans per month are closing their doors due to the administration's budget cuts. We must make every effort to keep those veteran CBO's alive and functioning.

We must look hard, Mr. Chairman, at the role of the Veterans' Employment Service. That program has never enjoyed any measure of flexibility. It is the target of every Department of Labor personnel budget cut and is currently rife with numerous key vacancies.

Moreover, prior to the enactment of Public Law 96-466 the VES has been under the thumb of the Employment and Training Administration and has not enjoyed the fullest cooperation from the Employment Service nor the Office of Federal Contract Compliance.

We perceive this is a most critical time for the VES. Public Law 96-466 established the Office of Assistant Secretary for Veterans' Employment, a position The American Legion worked long to realize. Undoubtedly the new ASVE will be on the spot from both the service organizations and from within the Department of Labor.

At this point we have far more questions than answers to the future objectives and course of the VES. Budget and personnel requirements and relationships with other pertinent Department of Labor programs.

Mr. Chairman, we said our statement would be brief, and we were really hoping for someone from the Department of Labor to be here to fully develop our statement.

So we would like to defer most of our major questions to such time as Mr. Plowden is confirmed by the Senate.

Thank you.

[The prepared statement of Mr. Bourie appears on page 111.]

Mr. EDGAR. We appreciate your statement, and while it was brief it did touch on a number of subjects that I do have some questions for, and again, we will zero in on the Department of Labor as soon as they have their confirmations in order and their personnel are able to come before this committee to testify.

Mr. BOURIE. I would like to add, Mr. Chairman, on the furlough situation out of OPM, the way I understand it, the furlough situation will be developed by alphabetical listing. In other words if you're an Abram your OK, but if you're a zebra you're in trouble. And veterans' preference is not going to be applied to the furlough situation.

Now we have a meeting, major service organizations have a meeting with the officials of OPM on November 18, and I want to develop that with them. But I strongly feel that the Veterans' Preference Act of 1944, as amended, certainly does take into consideration furlough, transfer of function, reduction in force, everything and everything, and it extends to the veteran certain rights, benefits and protections.

And I think if OPM goes ahead and develops the furlough situation on an alphabetical listing in my estimation it would be a violation of the spirit and intent of the Veterans' Preference Act of 1944.

It is the same situation with the CAB and the transfer function.

Mr. EDGAR. How would you go about setting up the regulations, apart from an alphabetical listing?

Mr. BOURIE. I would apply veterans' preference in the same manner and under the same conditions as an adverse action.

Those with the 30 percent or more disabled veteran first, veteran, nondisabled veteran second, and a nonveteran third category. Break it down the same way as the RIF regulation. The RIF regulations are good. They just need to be applied to a furlough situation and the same way with a transfer-function situation. You are absolutely right, we are going to see it with the CAB and we are going to see it with a lot of other smaller agencies, and this presents an anomaly not seen before in the Federal Government.

And I believe the OPM is under an obligation to truly address this issue. The General Counsel needs to sit down and address this issue. Does the Veterans' Preference Act of 1944, as amended, protect and extend certain rights and benefits to the veterans throughout all the adverse actions? Call it what you will.

Mr. EDGAR. What do you think will be the impact if OPM proceeds in their present status as it relates to CAB and to the furlough situation? How will it impact in an adverse way on veterans?

Mr. BOURIE. I think it will have a profound impact, a profound negative impact. And the implications coming out of this are enormous. As I said, it presents an anomaly not seen before.

We haven't really had a Government-wide RIF since perhaps 1950, and during that era, and here we are moving into a different area where veterans are now concerned. I receive letters every day, what am I to do? How am I protected? And we don't have any clear signals coming out of the General Counsel's Office at OPM on this thing.

For example, seasonal employees, at one time there were perhaps 400. Now there are estimated 40,000 seasonal employees.

Many, many of them are veterans. Are they afforded rights and benefits and protections flowing forth from the Veterans' Preference Act? No one knows.

Likewise the transfer function. We just don't know at this point.

Mr. EDGAR. Dr. Devine has indicated in his testimony that OPM has taken steps to encourage agencies to exercise their authority to hire disadvantaged and disabled Vietnam-era veterans under the VRA program. Can you suggest any other actions that OPM can take that would increase the use of this program in the Federal Government?

Mr. BOURIE. Mr. Chairman, we are very supportive of the program. We think it is an excellent program, and we have met with Dr. Devine and many of his officials and they are sensitive to this, but one of the things that my counterparts and I certainly see is that many of the agencies do not utilize this program properly. It is usually incumbent upon the individual applying for the program to know about the program.

I have had many veterans call me up and say I applied for the VRA but the agency doesn't know anything about the program, so there has to be a concerted PR effort to develop and massage this program as well as the program for 30 percent disabled vets program. It is just so grossly underutilized, but yet it's an excellent, excellent program.

Mr. EDGAR. I suggested to Dr. Devine that the signing of the new legislation last week by the President of the United States might serve as a good opportunity to reeducate the Federal agencies about the use of the program. Do you think that could be helpful?

Mr. BOURIE. Absolutely. At this point anything will be helpful, for both the VRA and the 30 percent. Perhaps more so for the 30 percent because that is just so terribly underutilized.

Mr. EDGAR. On page 5 of your statement you make some excellent points in your second, third and fourth paragraph there. You suggest that:

> But what of the unemployed or underemployed veteran? What is or can be offered to him? Chances are he is ineligible for CETA and Unemployment Compensation for Ex-service Personnel; Veterans' Administration On-The-Job Training is nearly nonexistent. Those that find CETA slots become frustrated and disillusioned. The simple truth is that there is nothing for veterans. Therefore, is it any wonder that many thousands of VEV's have simply dropped out, cynical and distrustful? And what is to become of the growing number of older veterans who are currently seeking veterans' programs?
>
> Surely this country has a trust obligation to each and every one of them; a continuous and overriding commitment. But that commitment in terms of real programs must be there and not illusory.
>
> As we all know, the Administration is currently phasing out CETA and proposes a block grant approach in that area.

The Vietnam Veterans' Multiservice Center in Philadelphia may have to close its doors in a matter of weeks because of deferral of funds by OMB. This program has provided jobs for hundreds of veterans of the Vietnam era.

Do you find this happening across the country because of decisions by OMB and the Department of Labor to cut back on funds?

Mr. BOURIE. Yes, indeed. Whether it's laid directly at OMB's doorstep or not I really don't know. Directly or indirectly they are getting their throat cut. As you well know we run, The American

Legion has DVOP program in Maine. We took it over in 1977. Since that time we are directly responsible for placing over 3,000 veterans, of all eras, in jobs. We have also referred over 47,000 veterans to other community social services. That, they have funding extended. They have been given a reprieve by the Department of Labor until December 31.

Also I am aware of at least two or three others, veterans' community based operations that have gone out of business that serve 200, 300 or 400 veterans a month, and to me that's incredulous. We just simply cannot let these services go down the drain, regardless. They are an extremely shoestring operation yet they do so damn well.

Mr. EDGAR. That information will be very helpful to us when the Department of Labor testifies on the 19th of this month, and I just felt that for the record your articulate words should be highlighted.

In a speech before your organization in Hawaii last September Dr. Devine discussed the situation of the Civil Aeronautics Board. Would you like to respond to the comment that he made at your national convention? Are you satisfied with that?

Mr. BOURIE. It is my understanding it didn't go quite far enough. Talking with OPM we only got half a loaf out of that thing, that those veterans in slots identified for abolishment will not be given any chance to compete if qualified for positions being transferred.

I did mention earlier a meeting with his officials on November 18, and I want to fully develop that. I have talked with the people who designed these regulations and veterans' preference was not considered at all.

So I don't know where it stands right now. This will be our first meeting coming out of the DAV, VFW and Legion Convention, and we want to talk about the Postal Service, EEOC, VRA, and we have quite an agenda for that day. He's been very good in meeting with us. We have met prior to the start of the convention time on a monthly basis, and we have seen some very positive things come out of his office, and it is too bad the Department of Labor couldn't do likewise.

Mr. EDGAR. In your statement you say that the Veterans' Employment Service must put its affairs in order. What are some of the things that it must do to put its affairs in order?

Mr. BOURIE. Well, as you well know, that prior to 96-466 they have been under ETA. Hopefully, 96-466 creates the position of full Assistant Secretary of Veterans Employment. What we in The Legion are looking for is a program that is given the full deference of an Assistant Secretary for Veterans' Employment. Its budget and personnel as you well know now, the veterans' budget program is scattered over three or four areas. ESA,[1] LMSA,[2] ETA,[3] who knows what has part of the veterans' program. You take a little bit here and you take a little bit there, and you come up with a veterans' program.

So we are looking at something so when we point our finger, if it's going to be Mr. Plowden he is going to be the one on the hot

[1] ESA (Employment Standards Administration).
[2] LMSA (Labor Management Services Administration).
[3] ETA (Employment and Training Administration).

seat, rather than saying, well, ES[4] out of Federal Unemployment Tax Account for the LVER's[5] or the DVOP's,[6] and going through this exercise since 1977.

It is very strange, but it is not strange to me, Mr. Chairman, but I just recently concluded some traveling to some local job service offices and I met LVER's who were not veterans, who had just come over from the CETA, the WIN program, and I've met veterans who walked into the job service office, and said there's just simply nothing for me here.

And when I ask the LVER's and the DVOP's I said, I know what you do, what do you offer the veteran? Where do you send them? They had no answers for me.

So we are looking at a tight consistent program for the full Assistant Secretary.

Mr. EDGAR. For those in the audience who might not understand those little letters and abbreviations you laid out, I think we have to be careful. While it's helpful to hear the shopping list of all of them some who may be listening may not understand the full implications of what you are talking about.

On page 6 of your statement you begin to outline a new approach to veteran manpower programs. For beginners, what potential rough spots would you envision, and how would they be resolved in developing these new programs. Also, is there a need for legislation to further define the job of the Assistant Secretary in the Department of Labor that has jurisdiction over these many and varied programs?

Mr. BOURIE. Well, I think the rough spots would be that first of all there would be some bit of cynicism toward them, as were during the VA Outreach centers. But look how successful they are. Also money; these are tight times. Where are we going to come up with the $20 or $30 million or whatever it is going to take? I really have no idea how much it is going to take.

I think those will be the first two questions. It is a new innovative idea, so to speak. Second of all, to address your second question on the ASDVE's, I haven't talked with Mr. Plowden at length, but perhaps legislation may be in order as to what he is going to, what the position entails, the full Assistant Secretary. What shall he do?

Looking at chapters 41 and 42, I think they are sufficient if they were ever implemented. That's the only thing I see, is implement the law.

I don't think legislation at this point is needed. I think we need a commitment, and we think we need a commitment from Congress. I think we need a commitment from the Department of Labor and getting moving. Are we or are we not going to address the severe problem of veterans' unemployment?

Mr. EDGAR. Let me ask you a question about the Department of Labor, and this is for background for our hearing with the Department of Labor. Do the current statistics developed by the Department of Labor fully reflect the actual unemployment levels of Vietnam-era veterans?

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[4] ES (Employment Service).
[5] LVERS (Local Veterans Employment Representatives).
[6] DVOP (Disabled Veterans Outreach Program).

Mr. BOURIE. Unequivocally, Mr. Chairman, no. Absolutely not.

I believe it is grossly underestimated. I base that statement on first-hand experience talking with many team leaders in VA Outreach centers, many team leaders who run veterans' community-based organizations, and I stay in contact with them, try to on a monthly basis to find out what is going on beyond the beltway, and they are seeing hundreds of veterans who have simply dropped out, do not trust the job service, do not trust the Veterans' Employment Service, just do not trust. But yet they go to a community-based organization on a peer situation, a one-to-one peer counseling approach, and that is why these community-based organizations enjoy such good success, is because they do trust, the veteran does trust their peer in this situation.

Mr. EDGAR. You mentioned several times the community-based program, and on page 6 of your testimony in further reference to the Federal community-based program, what is the present status of the so-called technical targeted assistance programs implemented by the Carter administration? These were the grants to community-based organizations by the Department of Labor to help veterans. Isn't your suggested program similar, except the control of your suggested programs would be in the Veterans' Employment Service?

Mr. BOURIE. Yes; indeed, Mr. Chairman. The concept would be the same. The funding would come from another source that could easily be targeted. As I said, the concept is the same, to establish these community-based organizations throughout the country, and as you well know there are many, many in operation, that enjoy good success and rapport in the community and it would be the same.

I am very convinced, seeing how they operate and what they do. I am convinced that that certainly is a delivery system that we cannot ignore at this point. DTTA or whatever, but I don't, I feel if it does bear fruit it shouldn't be funded from a source that can have it be cut off at the ankles every fiscal year. It has to be locked in.

I think this is a very critical time, Mr. Chairman. In my estimation traveling around and talking with people, we really don't have much time. The war has been over since 1975. We missed the boat on CETA. We missed the boat on "Son of CETA" in 1978. We've got to make it up and we don't have much time left. If we don't do something within 24 months we might as well forget it. This is all going to be an exercise in futility.

Mr. EDGAR. In 24 hours we are going to celebrate Veterans Day, and a number of Vietnam veterans this year have indicated, as they have in past years, their strong concern and frustration, some voiced by you just recently, about the inability of the Federal Government to get its act together in the whole area of providing employment, vocational training, educational assistance, to veterans as well as veterans' preference. If you were going to address the Federal Government, the President of the United States, the Director of OPM, the Secretary of the Department of Labor and his Assistant Secretaries, on what is essential for us to get that particular assistance provided within the next 24 months, what outline would you give?

What would be the specifics of a Vietnam-era job training and placement program that you would develop from the standpoint of The American Legion?

Mr. BOURIE. First of all I would extract a commitment in blood from them, first of all. And get it on paper. There have been too many loose promises with the Secretary, Veterans Council and OPM and the VA and everyone else. I would look for, first, a very strong commitment that they are going to do it.

I don't really envision a lot of money to get things going. Not the way I see the problem now. It is a matter of commitment. The people are in place. We do have the Job Service, we do have the Veterans' Employment Service, the Disabled Veterans' Outreach Program, and get them moving. Get some clear objectives in what we're going to do. Find out what's out there. What do we have to address? What has been our problem in the past?

We need a concerted outreach effort to bring the veterans back into the fold. Why are they bitter and cynical now? I would develop a plan along those lines, but the top priority would definitely be a commitment from all concerned agencies.

Mr. EDGAR. We need your help not only in the programs which you are discussing today, but the President signed into law last week a bill to provide a small business loan program, extension of the 91 readjustment counseling centers, expansion of the agent orange study to include other defoliants, also an extension of the 10-year delimiting date to 12 years for veterans who to use vocational or on-the-job training and VA apprenticeship programs.

It is clear that some of what was signed into law needs now to move to the appropriation process so that the few dollars necessary, for example, to fund the small business loan program and the few dollars necessary to fund the expansion of the agent orange study, clearly be part of the appropriation process. We hope that The American Legion will help and assist in making sure that these programs receive some priority within the appropriate committees of Congress.

We greatly appreciate the fact that over this year, as we have developed a response to try to attack some of the Vietnam-era problems, that The American Legion has played an important role in helping us. We thank you for that help.

Mr. BOURIE. Thank you very much, Mr. Chairman.

Mr. EDGAR. Our next group of witnesses will be from the Veterans of Foreign Wars.

First, Mr. James N. Magill, special assistant, national legislative service, accompanied by Mr. Kim Graham, employment specialist of the VFW.

Gentlemen, we appreciate your coming this morning and sitting through our hearings. Your full statement will be made a part of the record, and we invite you to summarize where possible, and so we can move quickly to questions.

STATEMENT OF JAMES N. MAGILL, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES, ACCOMPANIED BY KIM GRAHAM, EMPLOYMENT SPECIALIST, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. MAGILL. Thank you, Mr. Chairman.

As you mentioned, accompanying me is Mr. Kim Graham, employment specialist with the Veterans of Foreign Wars.

The VFW is appreciative of the subcommittee for holding this hearing and demonstrating its continuing concern with the veteran employment programs conducted by the Federal Government.

We believe that suitable employment is a basic element in a veterans readjustment process, and the Federal Government is in a unique position to assume an active and constructive leadership role in that process.

Unfortunately, the efforts demonstrated by this administration lead one to question if they are more concerned with rhetoric rather than action.

As of last week 21 legislatively mandated positions within the Veterans' Employment Service continue to remain vacant. We have repeatedly expressed concern to officials within the Department of Labor regarding these vacancies and that of the vacant position of Assistant Secretary of Labor for Veterans' Employment. We were gratified to learn that William C. Plowden has been nominated to the position of Assistant Secretary of Labor and we look forward to his swift confirmation by the U.S. Senate.

However, the 21 VES vacancies are still a reality and must be acted upon immediately. In addition we certainly oppose the recent attempts to eliminate the 52 VES secretarial positions.

Mr. Chairman, one of our key resolutions acted upon by the Congress this past year was with respect to the disabled veterans outreach program which established this program as a permanent DOL funded program.

Our enthusiasm was short lived, however, when we discovered that the DOL is having the State employment service absorb the staffing of this program. We strongly believe that it was never congressionally intended to fund DVOP from the State employment service.

We were very encouraged with the appointment of Dr. Donald J. Devine as Director of the U.S. Office of Personnel Management. In a statement before this subcommittee Mr. Devine gave the distinct impression he is a veterans' advocate and strong supporter of veterans' preference, a complete reversal of the policies of his predecessor.

What continues to concern us, however, is the nonsupport, both in funding and staffing, within OPM's Office of Veterans' Affairs. Recently OPM announced it was assuming the Equal Employment Opportunity Commission's responsibility to enforce Government affirmative action plans for disabled veterans. As you previously mentioned, Mr. Chairman, staffing is a problem and we question OPM's ability to accomplish this mission.

The VFW has testified numerous times regarding veterans' preference. With reductions in force occurring almost on a daily basis

we would be less than candid if we did not express our concern. The VFW expects the law to be upheld and enforced with respect to this matter.

As we have stated in previous testimony the abolishment of an agency has presented a unique problem for veterans employed by the Federal Government. In a situation where a function is abolished the veteran is denied the right to transfer to a new agency. We believe this was never the intent of Congress. We respectfully suggest that Congress amend the Veterans' Preference Act of 1944 to make this process a matter of law.

The veterans' readjustment appointment program has been very successful, with more than 136,000 veterans achieving employment through the VRA process, and the VFW applauds its extension as provided for in Public Law 97-72.

However, the VFW believes a serious inequity exists. Contrary to what Dr. Devine previously stated, if an appointee is removed from his position which he has occupied for less than 1 year, he has no appeal rights to the Merit Systems Protection Board. We have asked the Office of Personnel Management to review the implementation of the VRA authority to rectify this inequity in regard to the appeal process and they have assured us they are reviewing the situation.

Two veteran-related offices which also deserve discussion are the Office of Veteran Reemployment Rights and the Office of Federal Contract Compliance Program. Both appear to take an inordinate amount of time in the processing of cases. We have learned that people who should be working on veteran problems are actually being assigned elsewhere.

In addition, we have complained to OVRR for using part-time students to fill staffing gaps, yet this practice continues.

It must be noted, however, that all is not of a negative nature. OVRR in particular, continues to publicize its successes and we, as a service organization, certainly appreciate these efforts and the cooperation received from that Office.

Mr. Chairman, we would be remiss if we did not comment on a much discussed topic of late, Office of Management and Budget Circular A-76, or contracting out. If A-76 is fully implemented a large number of veterans may lose their positions since there are no firm assurances that these highly skilled and dedicated employees will be retained by the contractors.

By reducing the number of VA employees the number of veterans in Federal service will automatically be reduced. Needless to say the VFW is strongly opposed to contracting out, particularly where providing high level health care for our Nation's veterans is concerned.

This concludes my testimony.

Once again I would like to thank you for holding this hearing.

We will be happy to answer any questions you may have at this time.

[The prepared statement of Mr. Magill appears on page 135.]

Mr. EDGAR. Thank you very much.

We appreciate your taking the time to testify this morning and to include in your remarks comments about the Department of Labor as well as OPM. Presently the appropriations for the Depart-

ment of Labor for fiscal year 1982 contain an additional $43 million to implement the disabled veterans Outreach program which will be funded under a grant to the States for employment services.

On page 2 of your statement you refer to a letter to the Secretary of Labor Donovan asking that DVOP funding come through some other means. Did you ever receive a response to that letter?

Mr. GRAHAM. No, sir.

Mr. EDGAR. Are you planning a follow up?

Mr. GRAHAM. Undoubtedly. Right now with respect to the $43 million, there seems to be some question within the Senate subcommittee. At the present time the U.S. Employment Service has a budget of approximately $729 million, and originally it was thought that they were going to get $43 million more to implement the DVOP program.

We have heard as of yesterday or day before yesterday where the Senate subcommittee is going to be asking the U.S. Employment Service to include the $43 million as part of the $729 million. Obviously this is going to cause a tremendous problem within the Employment Service as they try to shuffle people around.

We do recognize that there is some bit of resentment by Employment Service personnel that are experiencing cuts, and now we have DVOP people that are there. We know that DVOP personnel are being utilized in other positions.

So there are definite problems regarding the DVOP program.

Mr. EDGAR. Does the VFW support the $43 million?

Mr. GRAHAM. Definitely. Most definitely. We find that it is one of the most successful programs the Department of Labor has ever implemented.

Mr. EDGAR. It has been suggested that the Federal contractors should be required to identify themselves to local Employment Service officers and also submit at least a quarterly report to those officers reflecting hiring of special disabled and Vietnam-era veterans. Do you think that these requirements would help alleviate the problem of locating Federal contractors so that the local offices can refer those categories of veterans to Federal contractors on a priority basis as required by title 38?

Mr. GRAHAM. Definitely. I believe that at the present time the Office of Federal Contract Compliance programs is similar to OVRR, it is very overtaxed as far as the amount of work that they are doing. The amount of outreach or their concern for veterans is very questionable.

If we could get the contractors themselves to involve themselves more and to let the Employment Service know about positions that are available, I am sure that veterans would benefit from it.

Mr. EDGAR. Has your organization received many complaints from veterans who feel that their right to veterans' preference has not been properly considered during the reduction in force currently occurring within the Federal Government?

Mr. GRAHAM. Well, quite naturally as a result of the reductions in force that are going on we get letters and phone calls every day. Quite candidly, much of the problem surrounds itself with the misunderstanding of exactly what is veterans' preference.

I find myself constantly having to go through the exact rules of what constitutes the first priority—having a vet having 30 percent

or more disability or just being a veteran itself and then a nonveteran.

The main problem now, obviously, is the concern itself with the abolishment of a position whereby the veteran has no idea that his veterans' preference essentially goes out the window. When your position is abolished then your entitlement to veterans' preference leaves.

Mr. EDGAR. Do you perceive a certain amount of chaos or confusion within the Veterans Employment Service, and if so what would your recommendations be to reorganize the program?

Mr. GRAHAM. I am not sure that that would be the correct word I would use in describing it. As we have said in our testimony, DOL presently has 21 vacancies. One of the vacancies has existed since approximately January 1, 1979, that's a secretarial position. So I do not know if chaos is the correct term, I think it is more of a planned operation to save money.

As far as the reorganization of the Department of Labor with repect to veterans, I believe that OVRR and the Office of Federal Contract Compliance programs should be brought under the Assistant Secretary for Veterans' Employment, Mr. Plowden now, or at least he is going to be confirmed, so that we have more control over exactly the responsibilities for that office.

I believe at the same time that where you have offices like the Office of Federal Contract Compliance programs, you also have the Office of Veterans' Reemployment Rights, an agency that is publicizing its successes and as a result is increasing business for themselves. They are in a type of situation where they have slotted approximately 55 positions. However, not all 55 positions are working in veteran matters. I think it is somewhere in the actual area of 44 positions that are actually doing what they are supposed to be doing. They are actually carrying on additional positions that are being farmed out to other areas of the Department of Labor.

Mr. EDGAR. On page 4 of your testimony you state that the VRA appointee dismissed from his position during his first year of employment has no appeal rights to the Merit System Protection Board. Are these veterans often dismissed during their first year, and does this happen more frequently in some agencies than in other agencies?

Mr. GRAHAM. Well, there is no hard information on that just because of the fact that there is no appeal process. We brought this to OPM's attention approximately a year and a half ago.

Since that time they have been examining the problem and they have assured us that they do recognize the double-edged sword, so to speak, of this particular problem. What you have is that if a veteran doesn't get along with his supervisor, for whatever reason, and the supervisor does dismiss him, instead of the VRA program being a help for him it can actually be a hindrance because he has to write down on his next job application that yes he was fired.

If he doesn't have an appeal process he can be fired for unjust cause and not have any kind of an appeal process to prove that he was innocent.

Mr. EDGAR. Are there some agencies that are more involved in this than others?

Mr. GRAHAM. I haven't gotten any kind of reading, as far as one agency abusing any more than any others. We would like to see, as far as the VRA program, agencies utilize it more. Right now you have certain agencies such as Department of Defense and the Veterans' Administration which are responsible collectively for probably 85 percent of all the VRA use.

Mr. EDGAR. As I indicated to The American Legion, we really need your help in educating the appropriations process here within Congress as well as people who have decisionmaking ability in the implementation of the legislation signed by the President last week that deals with the readjustment counseling centers, agent orange and the small business loan program, and the extension of the delimiting date on vocational training. I hope that you might follow those provisions of the law very closely now and help us to get the proper amount of funding provided for those programs.

I know of your interest in them, having listened to your testimony previously.

Mr. GRAHAM. Mr. Chairman, certainly the VFW is greatly interested in the implementation of that particular law, and I would like to reiterate a problem that we are experiencing. In this administration we hear great words regarding defense, and more words in regard to the help toward its defenders, but we are not seeing the action.

Today you heard Dr. Devine mention that they are still working on the actual process of possibly beefing up the Office of Veterans' Affairs within OPM. They are greatly overtaxed as far as the amount of work they have.

Now, with the addition of the responsibilities regarding affirmative action for disabled veterans, they are going to be greatly overtaxed. They are going to have to be monitoring approximately 120 agencies. Right now they are basically suffering from a situation where they have mostly chiefs and no Indians. Having just three career people, one of which is a secretary and having one part-time person, and obviously the responsibilities of being the major personnel office in the country, you have three people basically that are handling veterans' affairs. That says something, and what it says is not very pleasant.

Mr. EDGAR. And the Director becomes the commander of chiefs?

Mr. GRAHAM. Exactly.

Mr. EDGAR. I thank you for your testimony this morning and appreciate your taking the time to be with us.

Mr. GRAHAM. Thank you, Mr. Chairman.

Mr. MAGILL. Thank you, Mr. Chairman.

Mr. EDGAR. Our final witness will be Gerard N. Boller, an employee of the Civil Aeronautics Board.

Mr. Boller, we appreciate your coming this morning. We ask you to summarize your testimony this morning and the full text of your statement will be made a part of the record, and we would like to get to the heart of the issue that you would like to raise with us.

STATEMENT OF GERARD BOLLER, CIVIL AERONAUTICS BOARD, ACCOMPANIED BY THOMAS MOORE

Mr. BOLLER. Chairman Edgar, thank you for permitting me to appear. Actually what I have done is expanded on my written testimony, and if that is acceptable to you I will read this, and it is a bit longer but not too extensive.

Mr. EDGAR. OK. As long as it is not too long.

Mr. BOLLER. My name is Gerard Boller. With me is Tom Moore. We are both veterans and employees of the Civil Aeronautics Board. As you know, the CAB is scheduled to sunset at the end of 1984.

In line with the present retrenchment in Government and deregulation of the industry, Congress is now considering early sunset legislation to abolish the agency, possibly as early as 1982.

As proposed, this legislation would transfer some functions to other agencies and abolish other functions. With transfers and abolishments, both to occur at the same date, veterans do not have the right to transfer from abolishing to transferring agencies.

To our knowledge this will be the first time since 1944 that Congress has passed such legislation. The significance of this to veterans is that such a situation was not anticipated when Congress described veterans job-retention rights in the Veterans' Preference Act. Nor has OPM provided rules to guarantee veterans rights in these situations.

As a result OPM seniority rules have been applied to the CAB and these rules are designed to cover a situation in which veterans remaining in nontransferring functions would actually have a continuing job. This situation, of course, does not exist at the CAB.

The most recent estimate by the CAB's Office of Human Resources is that 17 percent of the veterans at the CAB will be RIF'd, yet it also says that 70 percent of employees with under 10 years of service will be transferred. The total reduction in force will be about 170 employees.

It should be understood that there are estimates and estimates and these estimates that they are now using differ from the estimates that were given only 4 months ago. At that time they said that several hundred of our employees may be separated when we sunset.

In fact, because of differences between the separate early sunset bills now being conducted it is virtually impossible to make a reliable estimate of how many veterans will be RIF'd. It is quite possible that some of the CAB's 30 percent disabled veterans may be RIF'd.

In one case this would occur to a veteran, disabled veteran, just before he was able to apply for retirement.

The significance of this situation goes beyond the CAB since in this time of retrenchment, deregulation and reorganization the number of agencies and employees affected by this lack of appropriate rules likely will multiply rapidly.

The CAB's estimate of 17 percent of veterans without job-retention seniority rights may be translated into hundreds or a thousand or more jobs.

The American Legion, and the VFW have both testified along with me before congressional committees concerning early sunset of the CAB.

The American Legion said that it is very concerned that should the Board implement its transfer functions as announced it will be the first step in eroding the intent and purpose behind the Veterans' Preference Act.

The VFW at its 1981 annual convention passed a resolution on this matter calling for full bumping and retreat rights for veterans when functions are simultaneously transferred and abolished.

For its part OPM does not speak of the spirit of the Veterans' Preference Act. Instead it states that its rules are based on the Veterans' Preference Act of 1944 as amended by the Civil Service Reform Act of 1978.

According to OPM the law specifically requires that if a function is transferred the people in the function are to be transferred with it. Yet by OPM's rules if the functions are abolished just 91 days before the functions are transferred veterans would have a right to transfer from abolishing to transferring agencies.

Also OPM has recently revised a rule which would transfer employees with the lowest seniority so that transfers would be made by employees with the highest seniority. This change in the rule which gives senior employees the right to transfer was made from the original rule because the original rule was not within the spirit of the Veterans' Preference Act.

Yet OPM has not made a change which I believe is also consistent with the spirit of the Veterans' Act which would permit veterans to move from abolishing to transferring functions.

I recognize that OPM may be right in this, but I should add that I doubt it.

And that the law may exclude veterans from exercising bumping rights in a situation such as at the CAB. In that case it would be appropriate for the Veterans' Preference Act to be amended so that the spirit of the act is honored with veterans so that veterans can exercise their seniority rights to retain their jobs.

On the other hand OPM may be wrong in its interpretation of the act. In such a case it should revise its rules so that veterans can exercise the bumping rights that they do have.

In this regard the 1981 resolution of the VFW says: "We seek legislation or administrative action to uphold true intent for veterans."

The American Legion in a letter to Dr. Devine said, "I have personally spoken to the individuals who drew up or amended the regulation who stated that veterans' preference is not part of the regulation structure."

We do not seek make-work jobs by legislation or administrative action. We do ask that the spirit of the Veterans' Act be honored in situations such as exist at the CAB.

In addition to benefits that would accrue to veterans as a result of these changes the Government would also benefit. Confusion as to your job-retention rights will create low morale, and low-morale employees create an inefficient volatile work force.

Senior employees who are in nontransferring jobs are unhappy because their seniority is not being honored. Less senior employees

in transferring jobs are unhappy because they may lose the jobs that they were going to transfer with.

Although all employees cannot be guaranteed employment it would be an improvement in the situation if it were resolved according to rules that conform to the law. Because this problem will likely repeat itself at other agencies it is important it be resolved before others are also put in turmoil.

Thank you, Mr. Chairman.

Mr. EDGAR. Thank you very much.

[The prepared statement of Mr. Boller appears on page 146.]

Mr. EDGAR. I think your last statement is a very important one, which I tried to raise with Dr. Devine, and that is that it seems to me that the actions that OPM has taken with regard to the Civil Aeronautics Board will in fact act as a symbol or a model for future actions when agencies are sunsetted or terminated. I think your testimony is helpful in that regard.

I wonder if you might indicate your personal situation at this point. You as an individual of the Civil Aeronautics Board, what happens to you now?

Mr. BOLLER. I am not sure. As I believe, and I truly believe this, that most of the employees of the CAB don't know what is happening. The CAB is now going through sunset hearings, and at the sunset hearings various functions of the agency are being evaluated as to whether they should be abolished or transferred.

There are possibly three different sunset bills that are being considered, and there are variations in each of them. Labor organizations have a concern in these sunset bills, cities have concerns in them, areas of the country have concerns with them because they feel they need essential air service.

It is not clear what bill will finally be passed. At present I happen to be in a nontransferring job. I also happen to be at the top of my seniority list at the CAB in my job function. Yet I do not know in what way I could exercise that seniority.

Mr. EDGAR. So you personally accent not only the confusion within the CAB but how that confusion can cause low morale at this point?

Mr. BOLLER. Absolutely, it is something that is truly unnecessary. It is true that people are unhappy when they know they are going to lose their job. From my speaking to most people there are numerous employees that just don't know what will happen.

And I might add to this that the staff of the CAB has been declining. There is no question of that. But the opportunities for getting jobs is declining also at the present time. The only agency that is truly hiring right now is the Department of Defense.

I believe that the number of employees that get jobs in the future will be extremely limited, but it is interesting that the employees that are able to get jobs now are low-grade-level employees.

It appears that agencies and private industry are more anxious to hire somebody who is possibly under 30 years old and at a low-grade level so that he can fit in with the career standards that they have developed at their agency.

Most of the veterans at the CAB are in their late forties and fifties, and they are in midlevel positions above the grade levels that are generally open to other employees.

So here they are in a situation where first there are limited job opportunities on the outside, low-level employees, a limited number are finding job opportunities. That means that the job level that is opening for employment at the CAB generally is a low-grade-level employment.

So the veterans, the mature veteran has no place or a limited area to seek future employment. He can't find it on the outside and the jobs aren't at the CAB either.

Mr. EDGAR. You mentioned in your written remarks that a law should be enacted to clearly define the intent of Congress as it relates to veterans' preference in relationship to sunsetting agencies like the Civil Aeronautics Board. Have you done any thinking as to what that law should look like, how the legislation should be interpreted?

Mr. BOLLER. The testimony that I have given in the past was at the sunset hearings for the CAB, and in that testimony we did specifically prepare legislative proposals which would be appropriate for the CAB.

In this instance my testimony goes beyond the CAB. It goes to all veterans.

At one time, I believe it was Jim Bourie of The American Legion or Jim Magill of the Veterans of Foreign Wars, suggested to me that the law could be changed by the inclusion of a sentence or two in the act. Now I cannot recite to you what that change would be, but it seemed to me it was a change in definition of employees who would have the rights in RIF procedures.

Mr. EDGAR. Let me thank you for coming and sharing your personal views on the impact of this with the Civil Aeronautics Board. I think that you have demonstrated that there is great confusion and chaos in how the Federal Government relates its veterans' preference to those agencies which will be terminated under the new administration's actions, both in terms of RIF's of Federal employees but also in terms of elimination of Federal agencies.

The issue that you bring before this committee might become much more dramatic. There have been reports in the public media about the elimination of the Department of Energy and the Department of Education. There have been discussions of terminations of other Federal functions. I think it is appropriate that our actions as they relate to the first agency to be sunsetted be appropriate, so that we can be consistent with those other agencies that may follow along.

It is a time of turbulence and turmoil for you personally, but also for the Government of the United States, and I hope that this committee can monitor the actions of OPM and other agencies that have responsibility in this respect and also look at the possibility of either changes in law or a more careful reading of present rules and regulations so that persons who are veterans, who have served their country well, can be protected under the letter and the spirit of the laws of the land.

Thank you for your testimony.

Mr. EDGAR. Before adjourning these hearings I would like to announce that as a result of some of our earlier discussions with Dr. Devine I plan on behalf of this subcommittee to send a letter to all of the Federal agencies asking for their compliance with the VRA

program, and hopefully, educating some of the new people within the Federal agencies system since January of last year as to the value of this particular Veterans' Readjustment Authority and their ability to hire veterans within the Federal employment system.

That letter will help to further accent the action that was taken in the President's signing of P.L. 97-72 last week that extended that program.

We will adjourn this hearing at this time. This hearing will be part of a two-phased discussion. As soon as appropriate we will have before us the officials of the Department of Labor to look at this question from the vantage point of the Department of Labor and its jurisdiction over these veterans' employment programs.

This hearing now stands adjourned.

[Whereupon, at 11:08 a.m., the subcommittee was adjourned.]

VETERANS' EMPLOYMENT PROGRAMS—OPM AND THE DEPARTMENT OF LABOR

TUESDAY, FEBRUARY 2, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON EDUCATION, TRAINING, AND EMPLOYMENT, COMMITTEE ON VETERANS' AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 334, Cannon House Office Building, Hon. Bob Edgar (chairman of the subcommittee) presiding.

Present: Representatives Edgar, Boner, Daschle, Dowdy, and Jeffries.

Mr. EDGAR. The Subcommittee on Education, Training, and Employment will come to order, and before I read my opening statement I would like to recognize our new colleague, Mr. Dowdy. We would like to congratulate you for not only your election, but your great wisdom in selecting this committee to be part of. I do not know if you have any opening comments you would like to make before we begin.

Mr. DOWDY. No.

OPENING STATEMENT OF CHAIRMAN EDGAR

Mr. EDGAR. The purpose of today's hearing will be to review the veterans' employment programs mandated by title 38, United States Code, administered by the Department of Labor, and other programs which come within the responsibility of the Assistant Secretary of Labor for Veterans' Employment.

I believe it is especially important to single out the issue of veterans' employment as a primary concern as we begin our subcommittee activities for the 2d session of the 97th Congress.

In December 1981, the unemployment rate for the Nation was 8.9 percent. Nearly 9½ million Americans are out of work. Unemployment could reach 10 percent in the next few months. Even topping the 9-percent level, which is imminent, could bring to the Nation the highest unemployment rate since the Great Depression.

Unemployment rates for Vietnam-era veterans have also reached record levels. Over 616,000 Vietnam veterans are out of work. The unemployment rate for veterans ages 25 to 39 stands at 8 percent. Unemployment for younger veterans ages 24 to 29 is at 12.9 percent and rising. Testimony received by our committee in the past has shown that even these figures might be low estimates. There are even more unemployed Vietnam-era veterans, especially the

disabled, who have simply fallen through the cracks of the Bureau of Labor Statistics reporting system.

As the present recession deepens, unemployment rates for Vietnam-era veterans in every age category have surpassed unemployment levels for nonveterans. These statistics prove that unemployment is not the only problem for these veterans. Marginally employed Vietnam veterans, or those with the least training and experience because of their service to their country, are the first to be laid off in the private sector or RIF'd by Federal or State governments. These circumstances limit the role Vietnam veterans can play in the work force and the effectiveness of services enacted by the Congress to help them find and retain training and employment.

Our subcommittee has received numerous complaints from the veteran community about the serious reduction of employment services provided for Vietnam veterans at the Federal, State, and local level during the past year. We are especially concerned about the significant disruption in the quality and quantity of services provided through the disabled veterans' outreach program [DVOP], which the Congress expanded and made permanent in 1980. Budget cuts have also eliminated the targeted technical assistance program [TTA], crippled the veterans' outreach and community services program [VOCS] and eliminated scores of qualified community and nonprofit veterans' employment projects. All of these programs were on the front line of providing direct employment counseling and placement services for veterans.

Last year the Congress approved the President's recommendation for the largest budget reduction in history. In this instance, it has become quite clear that the States have not been able to pick up the slack for these programs on their own.

If the States cannot maintain the quality of employment services for veterans as mandated by the Federal Government, then we should give them the resources they need and monitor these programs more effectively. If that proves to be impossible, then we should reassess the entire role the Federal Government can and should play in administering these programs more directly. If we have to contemplate any major change in the Federal and State relationship in coming months, we should remember that veterans' employment services, along with all veterans' benefits and services, are a national responsibility.

This year, our subcommittee and the Congress will be developing a new employment and training program for the Department of Labor to replace CETA. In establishing any new employment programs, we will also be reaffirming our national employment priorities. I believe it is the role of this subcommittee to see that, in the process, veterans and veterans' employment programs are not lost in the shuffle.

Our first witness this morning is the Honorable William C. Plowden, Assistant Secretary of Labor for Veterans' Employment. Mr. Plowden was nominated by the President and confirmed by the Senate to administer and to be an advocate for veterans' employment programs within the Department of Labor. The position he holds was elevated to the Assistant Secretary level by Public Law

96-466. We look forward to hearing both his plans and his problems today in order to assist him in any way we can.

Also with us today are witnesses from the Interstate Conference of Employment Security Agencies, Inc.; Mr. Chet Piekielniak, a former disabled veterans outreach specialist; and representatives from the Disabled American Veterans, The American Legion, AMVETS, Blinded Veterans Association, and the Vietnam Veterans of America.

Ladies and gentlemen, as we begin these hearings today it is important that we not only hear from Mr. Plowden but also hear accurately what the future holds for Vietnam veterans employment services as well as the employment services across the board. We are very pleased today to have Mr. Plowden with us, and we look forward to hearing his statement.

Mr. Plowden, please introduce the persons with you at the table. We invite you to read your statement or summarize it as you see fit, and we look forward to having an opportunity to ask you some questions.

STATEMENT OF WILLIAM C. PLOWDEN, JR., ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT, DEPARTMENT OF LABOR, ACCOMPANIED BY RALPH HALL, DIRECTOR, VETERANS EMPLOYMENT SERVICE, GEORGE GONZALEZ, DIRECTOR, OFFICE OF VETERANS' RE-EMPLOYMENT RIGHTS, CHARLES PUGH, DEPUTY DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, LARRY BRINKER, EXECUTIVE ASSISTANT TO WILLIAM PLOWDEN, AND VINCE PAGANO, SPECIAL ASSISTANT TO WILLIAM PLOWDEN

Mr. PLOWDEN. Thank you, Mr. Chairman. I am pleased to have the opportunity to appear before you this morning and to review veterans' programs and activities within the Department of Labor. As you know, I have recently been confirmed as the new Assistant Secretary for Veterans' Employment.

I have submitted for the record a statement in response to the prehearing questions asked by the committee, and will limit my opening remarks to introduction of staff members and review of actions I have taken since I have been the Assistant Secretary.

With me today is Mr. Ralph Hall, Director of the Veterans' Employment Service; Mr. George Gonzalez, Director of the Office of Veterans' Employment Rights; and Mr. Charles Pugh, Deputy Director of the Office of Federal Contract Compliance Programs. In addition, I would like to introduce to the committee Mr. Larry Brinker, who will be serving as my executive assistant; and also Mr. Vince Pagano, who will be serving as my special assistant and liaison to veterans organizations and agencies of the Federal Government.

While I have been at the Labor Department only a short time, I am pleased to report that we have made great strides in getting the Office of the Assistant Secretary for Veterans' Employment off the ground. We have moved into our permanent quarters in the Frances Perkins Building, and would invite you and the members of your staff to stop in at anytime to discuss matters of concern to veterans. In addition, we have relocated the Veterans' Employment

Service into the Frances Perkins Building, which has made coordination and management much easier now that all veterans' programs are located in one building.

I am also pleased to report to the committee that the President has approved, as you know, full funding for the Veterans' Employment Service for fiscal year 1982 and fiscal year 1983. This, of course, means that there will be no reductions in veterans' services in the Department of Labor.

I am also happy to report to you that I have had a number of conversations both with Secretary Donovan and Under Secretary Lovell concerning the role of my office and the veterans' programs in the Labor Department, and can honestly say both men have been very supportive and available to me at any time. We have also begun meetings between Labor Department officials and the veterans' organizations to discuss what program improvements that we may want to consider for the year. While I realize these successes are small, I am extremely encouraged by the warm and sympathetic response and support of the Secretary, Under Secretary, and other Assistant Secretaries that I received during my time with the Labor Department. I am confident that with this cooperative attitude we can effectively administer veterans' programs in the Department of Labor.

I am also pleased to report that I have begun a dialog with the top officials of the Veterans' Administration and the other Federal agencies charged with service to veterans so that we may improve our working relationship, eliminate duplicative services, and be able to provide quality service to our veteran community.

I now would be glad to entertain any questions the committee may have.

Thank you, Mr. Chairman.

[The prepared statement of William C. Plowden appears on p. 149.]

Mr. EDGAR. Thank you very much for your statement.

Late yesterday afternoon the subcommittee received the news that the administration will send to the Congress a $2.3 billion supplemental appropriation increasing the current continuing resolution for the Department of Labor within the areas of unemployment insurance and compensation. Also included in that supplemental was $210 million for employment services throughout the United States. The supplemental will raise the budget totals for this fiscal year to cover the growing shortfall caused by increasing demand and rising unemployment. The $210 million for the employment services will bring the levels right back to where they were last March.

We were delighted to see the administration make this move at a time when the unemployment rate has reached catastrophic proportions, but we are even more interested in seeing how these funds will be allocated, what portion of them will be spent to restore veterans' employment services, and how soon we can get these services back on line.

One of our problems has been that as we have looked across the Nation we have discovered that in unemployment services there has been a cutback, a reduction in force, a limitation of people put in place to provide services to unemployed veterans. Can you com-

ment on how much of the funds will be earmarked for the purpose of restoring some of the cuts and some of the employment service officers which took place last year?

Mr. PLOWDEN. Mr. Chairman, I would be happy to comment on this. We are real pleased with the actions of the President and the administration. We feel that this will certainly clear up a lot of confusion that has existed the last few weeks. This fund will take care of our disabled veterans outreach program, the DVOP program. Approximately $43 million is needed for this program, and we feel that it will be adequately taken care of and put back on track.

There are other mandated positions in the employment services that were in danger because of the lack of funds, but this figure will certainly cover these positions. We should have no real problems or trouble in bringing back the people that are necessary to adequately service the veterans. We feel real good about this, and we feel that this does the job for us at the present moment.

Mr. EDGAR. Can you be very specific with us? Will this restore the 2,000 positions in DVOP or part of them?

Mr. PLOWDEN. It should restore all 2,000. A little over 2,000, actually.

Mr. EDGAR. I am sure my colleagues have statistics from their State. The State of Pennsylvania was authorized for 113 DVOP positions. At the present time there are 54 of these positions filled, and because of RIF's and during the calendar year 1981, nearly half or 22 of the 54 positions turned over. Within the entire Pennsylvania State Employment Service in October they lost 300 employees out of 1,033 employees. At present levels, without the supplemental appropriation, they would lose another 300, or half of their total employment service work force.

Now as you can imagine, morale is very low and a great deal of uncertainty has come through this year because of the cuts and the shifting and the sorting around. Is there any way that we can figure out a strategy to see that this will not happen again? I think we have all learned a great lesson about this kind of thing happening and the shortfalls that were anticipated. Do you have any plans to make sure that we do not have an up-and-down personnel staffing process in the DVOP area again?

Mr. PLOWDEN. Yes, sir. This has caused quite a bit of problems as far as personnel is concerned, and it has created an additional expense. Certainly we do not want this to happen again. There is no reason that this figure should not put these DVOP's back into position within the immediate future, not later on, but immediately. This takes the employment service back up to I believe a figure of 24,500 and some, which is adequate I feel to not only cover all of the mandated positions but to cover adequate service to veterans. Certainly when the 1983 budget is considered, I am sure that the experience for the past 2 or 3 months will be considered, and certainly we do not want to repeat that situation.

Mr. EDGAR. Well, I appreciate your comment, because when we moved last year or failed to move in passing the budget in a timely fashion, we shut down the entire government, and that was very disruptive. You can imagine the disruption in a particular agency like yours as we see the reduction in force, and then the restoring

of that reduction. Many people have a sense of uncertainty about their future, and I am pleased to hear your assurance that those persons will not only be rehired but it is your intention to keep them in place.

I have a long list of questions, but I am going to yield to my colleagues and then come back and ask specific questions. I yield to my colleague, Mr. Jeffries.

Mr. JEFFRIES. No questions.

Mr. EDGAR. Mr. Daschle.

Mr. DASCHLE. I want to share in welcoming you here this morning. I am going to take a little different approach to some of the questions. It may not relate directly to the testimony you presented, but it deals with a concern that I have with regard to affirmative action, with regard to Public Law 93-508, with regard to hiring and firing of veterans that may be subjected to this deemphasis of Federal responsibility that we call New Federalism.

I am concerned about what kind of guarantees veterans have that when RIF's, layoffs, and outright firings occur that we will take into account the priorities legislated in the law that veterans ought to be protected by. I do not think that is happening very well. In fact, I do not think it is being administered very well within the departments right now. So to begin I would like to ask you, how many discrimination complaints concerning disabled or Vietnam veterans especially as covered under Public Law 93-508 has the Office of Federal Contract Compliance investigated during the last year?

Mr. PLOWDEN. I will ask my representative here from Contract Compliance, Mr. Charles Pugh, to answer that question, since I am not yet as familiar as I should be with that.

Mr. PUGH. Mr. Daschle, we completed or investigated 174 complaints during fiscal year 1981. That is the fiscal year ended September 30, 1981.

Mr. DASCHLE. How many complaints out of that 174 were considered to be legitimate complaints whereby you reversed the decision?

Mr. PUGH. I do not have the data with me. The information I have——

Mr. DASCHLE. You do not know what the success or failure rate on this was?

Mr. PUGH. Overall, our complaint investigations have resulted in findings in favor of the complainant in approximately 27 percent of the cases.

Mr. DASCHLE. Twenty-seven percent?

Mr. PUGH. Approximately 27 percent, as I recall. I am assuming that the percentage pertaining to section 402 would be approximately the same as the average.

Mr. DASCHLE. Can you provide the committee with that information/

Mr. PUGH. I would be happy to.

[The information follows:]

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS: RESULTS OF COMPLAINT ENFORCEMENT ACTIVITY—FISCAL YEAR 1981

	Executive Order 11246		Sec. 503 (Handicapped)		Sec. 402 (Veterans)		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Complaints resolved in favor of complainant (violation)	107	25	389	29	24	14	520	27
Complaints resolved with no finding of discrimination (no violation)	322	25	966	71	145	86	1,433	73
Administrative closure/ withdrawn	31		147		5		183	
Total	460		1,502		174		2,136	
Results of appeals made of complaints resolved with no finding of discrimination:								
Total number of appeals reviewed	33		43		7		83	
Number of appeal findings in favor of the complainant	0		0		0		0	

Mr. PLOWDEN. Can I ask Mr. Gonzalez to say a word about that, too?

Mr. GONZALEZ. From my vantage point, Mr. Daschle, that is reemployment rights. We do get involved from time to time. I could not cite numbers, but I will be glad to research them and come back to you. In situations involving veterans in private industry but also in counties and municipalities, where he believes that he has been wrongly discharged or laid off, we do get involved in that area.

Mr. DASCHLE. We have an example in South Dakota that has caused me a tremendous amount of concern. I want to talk to you about it, not because of its parochial nature, but because I think it is relevant to the situation around the country. We had a number of veterans who were laid off without any obvious relationship to the priorities with which Public Law 93-508 and any other laws apply, and a decision was reached that in the Denver OFCC discrimination had occurred, that no preference was given to the fact that they were veterans, and yet the Washington Office of Federal Contract Compliance, ruled that you have no jurisdiction in these complaints.

I do not know why you exist if you do not have jurisdiction, and an obvious example such as the one we found in South Dakota, if this is what is happening, if we are finding that investigations around the country are coming up with obvious and flagrant examples of nonrecognition of veterans' preference laws in this country, then I think we have got a job to do in the legislature that I did not realize was necessary.

Why do you feel in this case that your jurisdiction is not warranted?

Mr. PUGH. In this case as in any other case involving a State or local jurisdiction, the basic questions that we must be able to address are whether the contract or subcontract includes or involves

a division that has responsibility for the work product, is involved in the work under the contract, and has responsibility for the outcome of it. In this particular instance, according to the facts that we have, the work was performed by the reports and analysis division of the South Dakota department of labor, and the complaints emanated from the Job Service Division, which has no involvement with the contract. According to the information we have, there are two separate divisions within the State.

Mr. DASCHLE. Was not the Department of Labor a contractor with the Federal Government? Were these people not employees of the Department of Labor? They are.

Mr. PUGH. Yes, they are.

Mr. DASCHLE. It seems to me you can come up with all kinds of bureaucratic jargon to tell me why you are not involved in this case, but to me it is an out. There is no reason for you to ignore a case that is a flagrant violation of veterans' preference. The laws says it is possible. Section 402(b) says that it is your responsibility, and frankly it disturbs me to see that when we have an agency like this designed to provide for veterans' preference in this country, to insure that there is some protection, we get all this garbage about why it is not possible.

I am taking up more than my time, Mr. Chairman. I would like to come back with more questions later.

Mr. EDGAR. The chairman yields you another 2 minutes if you would like to pursue another area.

Mr. DASCHLE. I am not finished with this one.

Mr. EDGAR. Pursue it.

Mr. DASCHLE. I understand that your investigator was given a contract that the agency had and that you apparently chose not to even investigate whether that contract with the agency was a valid one. Is there any reason why you chose not to do that?

Mr. PUGH. The investigation was conducted, according to the information that I have, and also we regret that we did not make an earlier determination of lack of jurisdiction. The facts of the case do prohibit us, according to the interpretation of the regulations, from having jurisdiction over this matter.

I wish I were in a position to give you a better and more satisfactory response.

Mr. DASCHLE. Have you received any kind of political pressure to put this thing behind you?

Mr. PUGH. No.

Mr. DASCHLE. Where is Ellen Shong today?

Mr. PUGH. She had another commitment this morning which she could not get out of.

Mr. DASCHLE. Something more important than coming before the Veterans Committee?

Mr. PUGH. I would rather not respond to that.

Mr. DASCHLE. It seems this is so typical of the way this whole case has been handled. Inaccessible, indirect answers to questions about what is an obvious and flagrant example of a violation of the law. Tell me—I guess I have not been satisfactorily answered in this regard—what are your intentions? Are you going to let this thing go and put it under the rug and let other States do the same thing? Is that the way you are going to set your example? This

would have been the first time where you could have made a case for violation of the law within a State agency of this particular provision, and you chose not to do it. Are there others going on throughout the country that you are going to neglect as well?

Mr. PUGH. You may be assured that we will neglect no one for whom we have responsibility and the authority to provide protection.

Mr. DASCHLE. Then I assume you are going to follow through with this case until it is completely and totally resolved, and at least if it is 27 percent, we have to expect that at least a fourth of the complaints filed in this case are going to be resolved favorably in the interest of the veteran. Can we assume that?

Mr. PUGH. You may be assured that in all instances where it is found where we have jurisdiction, where it is found that discrimination exists, that we will pursue those cases to the full extent of the law.

Mr. DASCHLE. So you are telling me that this particular case has not been resolved finally?

Mr. PUGH. I am saying in this particular case that we have found that we do not have jurisdiction, and under that finding do not have the authority to pursue it further.

Mr. DASCHLE. So a flagrant violation of the law in this case will be ignored because you choose to ignore it. Is that what you are telling me?

Mr. PUGH. I am not saying that. We have found that we do not have jurisdiction, and as a result of that we have no right, no authority, to pursue the case further under that finding.

Mr. DASCHLE. If they have a Federal contract and the law says that you are in charge of insuring veterans' preference for Federal contracts which are legally signed in a contractual arrangement, why would you not have jurisdiction? I just cannot understand how that is even a legitimate point. You certainly can use your imagination and come up with something a little bit more plausible than that. I guess we are not going to get any further with this discourse.

Mr. Chairman, I am amazed that this is the kind of compliance we see with this law. If this law has so few teeth, as it appears to have, maybe we ought to redraft it to insure that this kind of abuse does not happen in the future.

Mr. EDGAR. Thank you for raising the question. I would hope that Mr. Plowden's staff would work with the gentleman. Even if they choose not to pursue it, I am sure they are smart enough within this system and other agencies to figure out who does have jurisdiction in complying with this law.

Mr. PLOWDEN. Mr. Chairman, I assure you that we will get to it.

Mr. EDGAR. Mr. Dowdy, any questions?

Mr. DOWDY. No.

Mr. EDGAR. Let me ask some questions to zero in in detail about the employment services. At present there are 23 vacant positions within the Veterans' Employment Service that are mandated by Federal law, 11 of these are secretary positions. How will the secretaries be funded, at the Federal or at the State level?

Mr. PLOWDEN. At the Federal level.

May I expand on that a little? We have within the President's supplemental request $1 million for the VES, which I believe is in the House bill request and will probably be included in the Senate that will give us adequate funding for the VES and these mandated positions for 1982 and 1983.

Mr. EDGAR. You state in your testimony that all of the 52 secretarial positions are in place, and yet the Disabled American Veterans in their testimony state that 11 of those positions remain vacant. Can you explain this?

Mr. PLOWDEN. Yes, sir. We have not been transferred from ETA, and will not as far as personnel is concerned until around February 16, and after that date, with the approval of the supplemental appropriations request, we will fill these positions immediately, sir.

Mr. EDGAR. Do you plan to fill the State director position in your own State of South Carolina?

Mr. PLOWDEN. Yes, sir, when it is available. When funds are available and the time comes, I will; yes.

Mr. EDGAR. You stated during your confirmation hearings that the fact that the Veterans' Employment Service is a monitoring service and not an employment service will not stop you from developing ways to serve Vietnam veterans better. Do you have any proposals to serve Vietnam veterans better? Have you submitted any proposals to Secretary Donovan which could be included in the President's budget recommendations when they are released next week?

Mr. PLOWDEN. No, sir, not now. We are considering some. We have not come up with a final decision on it, but we certainly will be seeking ways that we can better serve the veterans.

Mr. EDGAR. As you know, Mr. Plowden, there are certain timetables that all of us have to be concerned about. For example, in the congressional process if we do not get our first budget recommendation to the Budget Committee by the 15th of March, we are in trouble. If we do not pass the authorizing legislation by the 15th of May, we are in trouble. And then we have a series of budget and appropriation votes and discussions through the summer, and hopefully put in place on October 1 a 1983 budget.

Do you feel any uneasiness about the fact that the President's budget and the discussions surrounding the budget have taken place without any recommendations on your part for Vietnam veterans' employment services so that if you do come up with any imaginative, creative, thoughtful ideas, that you will in fact have missed the budgeting cycle for those ideas, and we may be here a year from now with your thoughtful, creative, imaginative ideas trying to put them in the 1984 budget, but in fact a whole year of impact on veterans will have taken place. A year of service which you have given to the Nation will have taken place, before your views and plans and ideas will even be in a position for consideration?

Mr. PLOWDEN. Mr. Chairman, I have been assured that within the next 2 days that I will have an opportunity to participate in discussions and to give my ideas concerning the future programs of the veterans that will be included in the President's recommendations. We have been terribly concerned, and our time has been consumed in the last 2 or 3 weeks with the DVOP situation and with

the employment service situation, which is our delivery system for veterans services, but I have been assured that within the next 2 or 3 days I will be given an opportunity.

Mr. EDGAR. Mr. Plowden, who on your staff is presently working on some of these concerns that you will be discussing in the next 2 days?

Mr. PLOWDEN. Well, Mr. Larry Brinker, my executive assistant, and the Director of the VES, Ralph Hall, and his staff are working on this too. They are all doing it together. I am sure they can come up with something.

Mr. EDGAR. Do you see any impact of the President's new direction toward a New Federalism flowing and impacting on your actions and activities?

Mr. PLOWDEN. Yes, to a certain extent there is concern, but I do not think there is any danger as far as the program is concerned.

Mr. EDGAR. Are you going to swap any programs back to the States?

Mr. PLOWDEN. Not to my knowledge.

Mr. EDGAR. In your confirmation hearings you stated that one of your first priorities would be a thorough review of your organization to detail any possible changes in administrative structure within the Veterans' Employment Service. Has that review been completed?

Mr. PLOWDEN. Yes, sir. It is just about completed, and we have already submitted plans for reorganization that will be approved I am sure in the very near future, as soon as the union and other people involved finish with it.

Mr. EDGAR. At what time or what point in your deliberations will Members of Congress be made aware of the details of that reorganization?

Mr. PLOWDEN. As soon as it is approved, which I would say sometime in the middle of February.

Mr. EDGAR. You also expressed support for the role played by the regional directors within VES as being a necessary line of communication with the field. Do you still hold that view?

Mr. PLOWDEN. Yes, sir, and I hold the view that the regional director concept will be strengthened. Their activities and their duties will be strengthened, sir.

Mr. EDGAR. Mr. Gonzalez, would you indicate what your duties are primarily?

Mr. GONZALEZ. I am the Director of the Office of Veterans' Reemployment Rights, which is a program within the Labor Management Services Administration. I am the head of the program, the manager, the functional director of all its administration in the field through the agency of the staff, the field staff, of the LMSA, Labor Management Services Administration. I work for the Assistant Secretary and the Deputy Assistant Secretary of the Labor Management Services Administration, who has delegated authority from the Secretary, who has the statutory authority to administer this program on behalf of veterans.

Anything else I can add?

Mr. EDGAR. How long have you worked in that position?

Mr. GONZALEZ. As Director, going on 2 years, slightly over. Two-plus years.

Mr. EDGAR. Mr. Hall, can you state your responsibilities?

Mr. HALL. Yes, Mr. Chairman. I am the Director of the Veterans' Employment Service [VES]. I am responsible directly to the Assistant Secretary for Veterans Employment. I have the responsibility for operating and managing the headquarters office here in Washington and the VES field staff. The national office consists of personnel working in field operations, management, technical services, and program management. That responsibility filters down through the field staff of 10 regional directors, 52 State directors, and 94 State assistant directors who are responsible for activities within their respective States.

Mr. EDGAR. Have you had any RIF's in your particular department?

Mr. HALL. No positions were lost, sir. We have had three bumps. We lost one professional in California by virtue of a bump. He was a person brought onboard less than 3 years ago. He was a career conditional employee, a 30 percent or more disabled veteran, but unfortunately he had not been onboard long enough to be a permanent staff person. Two of our secretaries, one in Atlanta and one in Florida, are scheduled for reassignment as a result of being bumped by more senior persons.

Mr. EDGAR. It has been brought to our attention that some of the trained and sensitive persons who were serving particularly the Vietnam-era veteran who came into the system late have in fact been bumped. Is there any concern or cause for alarm in your agency about that possibility as we move toward, as the President indicated last Tuesday night, 75,000 additional Federal employees will be lost to the system if he has his way?

Mr. HALL. Mr. Chairman, we expressed to you that we have great concern about this. In the last few weeks, as Mr. Plowden has indicated, it has just been a constant stream of inquiries from all directions about the people whom you have just mentioned. We have great concern about these people, because these are the people we have trained and brought into the program, but in the passage of the law, there truly was not a grandfather clause that provided for them to be grandfathered in.

The language of the law—Public Law 96-466—said that the incumbent DVOP's in those positions would be given every consideration provided that they were qualified, and the problem has been that with the guidelines from the Office of Personnel Management requiring that the people appointed in these positions be appointed according to the merit system standards in the particular State. We have found that in some instances the DVOP's onboard either did not qualify as in meeting the merit standards by passing the particular exams given or they passed the exams and became recognized permanent employees in the respective States, but unfortunately got bumped by disabled veterans or veterans with higher seniority.

We are very concerned about this, but we hope that with the restoration of some of the funds for the employment service this may be alleviated. We are concerned because in addition to this we have not only lost many DVOP's whom we have trained in those programs, but many of our well-trained professional local veterans em-

ployment representatives have been sacrificed in some of these instances.

Mr. EDGAR. The reason I wanted to pursue that issue is the concern that has been expressed several places; that is, everybody wants to cut waste, fraud, and abuse out of the Federal Government. The rhetoric of Government being the enemy is pretty vocal these days. If you just get Government off our back and out of our pocketbook, things will be better.

Yet it seems to me that some of us, particularly those who care about veterans programs, think of Government as being a partner, not an enemy, and have put in place programs that we hope will assist veterans. The VA readjustment counseling centers are an example of that. The DVOP program that all of us fought so hard to maintain is an example of that.

Yet what I hear you saying, if we don't have strong funding for the DVOP's, and if we continue this up and down funding process, and if we pursue a policy that indiscriminately cuts Federal employment programs without being discriminatory in terms of what is good and what is bad within that system, we may find ourselves with people with 10, 15 years of experience bumping down and being employed in positions that (*a*) they haven't been trained for, (*b*) they may not have the sensitivity to. It may be the reverse of the Peter principle that in fact we are putting people in charge of programs that they are not really qualified for even though they may have the degrees, the certificates, and the years of seniority in service. That is tough in a system where seniority is important.

We should know here in Congress about both the value and the problems with seniority. We play musical chairs and wait for the person next to us to die or lose office, and then we move up a chair. We don't select committee chairmen or subcommittee chairmen by intelligence and creativity, we select them by who is in the right spot at the right time. Sometimes that has a dulling effect on democracy.

I suggest that in fact the New Federalism may have a Government that is smaller. We may pay out less in salaries. We also may have a Government that is less efficient rather than more efficient if we are not careful in our work. Less Government is not necessarily better Government.

I think most of us want to think smarter and act more efficiently and eliminate waste where we can.

Mr. HALL. We share your interest. The DVOP program in all probability is one of the finest examples of what you are trying to stress here. We think that the early success of that program was because of the peerage attitude that went on with a disabled veteran working to help and counsel and to try to assist in employment another disabled veteran. We are very concerned about the bumping down by senior people who may not have that built-in vested interest in wanting to help one of the veterans of their own age and their own experience and so forth. We will be watching that very closely, sir.

Mr. EDGAR. Mr. Plowden, do you plan to do anything about this particular problem to help protect Vietnam veterans who hold these jobs within the DVOP program apart from adding the additional supplemental money?

Mr. PLOWDEN. Yes. We have already instructed our people in the field again as to the law and just how we are supposed to monitor this law and see that it is carried out to the fullest. We certainly are concerned.

Mr. EDGAR. It seems to me you may want to think about addressing to some of your legislative geniuses in the Department of Labor the possibility of a fine-tuning of existing law to protect this problem as you move to elimination of jobs. Well, let's move on to another question.

Mr. DASCHLE. Mr. Chairman? Would you yield?

Mr. EDGAR. Yes.

Mr. DASCHLE. I would like to ask if the committee would formally request of the Department of Labor their precise interpretation of how they see compliance when it comes to States. I think it is much easier in some cases to invoke a compliance when you are dealing with a small business or an entity of some kind, but it may be more difficult for various reasons to insure that compliance when it comes to States and Federal contracts.

I would like to have the Department of Labor's exact interpretation of when and when not to use Public Law 93-508, and especially that provision dealing with compliance in subsection (b). If they could do that for the committee, I think it would be of great service to us for future interpretations on whether or not the law is meeting the intent that we so designed when the law was passed.

Mr. EDGAR. Without objection I will make that request of Mr. Plowden and anticipate a response.[1]

Mr. PLOWDEN. Yes, sir.

Mr. DASCHLE. I would prefer a personal letter after the explanation has been written to me indicating what kind of compliance factors as they relate to the instances that we presented earlier.

Mr. EDGAR. It would be helpful if it would be your solicitor's opinion as opposed to your opinion so that we could have it accurate in the legalese language that lawyers know so well.

Mr. PLOWDEN. We will.

Mr. EDGAR. Have you formalized a working agreement with the Veterans' Administration to coordinate your activities with programs and services administered by the VA?

Mr. PLOWDEN. Yes, sir, and I will meet with the VA again this afternoon to be sure that everything is cleared up in that respect.

Mr. EDGAR. It would be helpful if you might, after your negotiations, supply a copy of that for the record.[2]

Mr. PLOWDEN. Be glad to.

Mr. EDGAR. Who is the primary contact within the Veterans' Administration that you work with?

Mr. PLOWDEN. The assistant to the Director.

Mr. EDGAR. The assistant to the Director?

Mr. PLOWDEN. Yes.

Mr. EDGAR. Do you know his name?

Mr. PLOWDEN. Charles Hagel. He is the Deputy Administrator.

Mr. EDGAR. Public Law 97-72, approved by the Congress last year, authorized a 2-year targeted extension of the 10-year delimit-

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[1] See p. 152.
[2] See p. 152.

ing date for certain Vietnam-era veterans to utilize the apprenticeship and vocational training programs. That extension was to be effective January 1, 1982.

Can you explain why in your testimony you state that Veterans' Employment Service offices will not be appraised or given full information on that program until the middle of February.

Mr. PLOWDEN. Mr. Hall?

Mr. HALL. I'm sorry. I think I misunderstood you. You are saying that we did not indicate that we would notify our personnel with regard to that?

Mr. EDGAR. It is my understanding that your final regulations and information on how the program will be administered have not yet been received in the field. Yet the law states that the program is effective on January 1.

Mr. HALL. I think in Mr. Plowden's written testimony he indicated that as soon as the law was enacted a field memorandum was initiated and is in clearance and by the end of the month should be in the hands of all the administrators for them to pass that on.

Mr. EDGAR. There is a 6- or 7- or 8-week delay from January 1, when the 2-year extension of the delimiting date was set, in effect, and therefore there is some uncertainty out in the field.

Mr. HALL. I would have to attribute that to the process of putting something of that nature in clearance once the final information was available to us and putting it through the process of clearance within the Department of Labor and from there to our respective individual regions.

Mr. EDGAR. Do you think we should get a 2-year extension of the 2-year delimiting extension?

Mr. HALL. Although a formal document is not in the field to advise our people, in most instances, either through a contact with individual offices or in following legislation as publicized by the major veteran organizations, and so forth, our people in the field are pretty well aware of the forthcoming legislation, and in most instances are pretty well onboard with it even before the fact of an actual formal document being in their hands.

Mr. EDGAR. One of our concerns in putting that 2-year extension in place is that the benefit of that program has been weakened by overregulation, and we are concerned about the implementation to limit further the eligibility of many Vietnam-era veterans who might not be aware that they could be eligible would further weaken the program.

Can you describe for us briefly how you see the program being administered?

Mr. HALL. Being administered as far as we are concerned or——

Mr. EDGAR. That is correct.

Mr. HALL. We just think that this is one more of the areas of responsibility that is ours to inform the veterans of this extension of their eligibility and to offer encouragement for the participation in the particular program. In many instances these people have just not looked upon their rights as far as the extension of their education is concerned as one of the first steps that they might need to take to make themselves job ready and to get ready for employment in the field.

We just feel that this program will be one more tool to expand upon in attempting to make all this information available to the people in the field.

Mr. EDGAR. I have just been given a note to indicate that one reason for raising this important question was that the VA guidelines were sent out in December, and there is a lagtime in getting your guidelines for it. I think there may be some problem in the delay.

Mr. Plowden, you stated at your confirmation hearings that linking the targeted jobs tax credit program with services provided by disabled veterans outreach specialties would be an effective tool. What steps have you taken to promote that connection and do you plan any specific legislative action in that area?

Mr. PLOWDEN. Yes; we do. I would like Mr. Hall to answer.

Mr. HALL. In linking it with the DVOP program, the targeted jobs tax credit program provides employers with some tax benefit in employing veterans and is an opportunity for our people in the field to have one more tool that they may approach employers with with regard to attempting to offer encouragement for them in job development with the particular employers in the local areas.

We feel that the DVOP program, as I indicated to you earlier, was successful because of the peer relationship between the veteran and the disabled veteran, and in many instances we are getting stories back of how successfully the disabled veterans outreach representative in the local area is working, tailoring the particular job to the seriousness of the problems of the disabled veteran with whom he is working. And in many instances things like the targeted jobs tax credit program is the type of vehicle that the DVOP representative works with.

It is just another one of the things that we try to expand upon to attempt to link our work in the field with the DVOP program to the private sector employment in the local community.

Mr. EDGAR. Speaking of the private sector, Mr. Plowden, have you planned or proposed any cooperative working agreement with the Vietnam veterans leadership program administered by the ACTION agency? As you know, this program was designed to promote private sector veteran employment. You are also asked to monitor and encourage any program which would help promote veterans employment in the private sector.

Has the Department of Labor authorized any funds to assist the Vietnam veterans leadership program? Has any interagency agreement been envisioned between the Department of Labor and the ACTION agency to support this program?

Mr. PLOWDEN. We have met with these folks and had a complete discussion with them. We have offered our assistance in every way. We have notified our field people to give them assistance and any technical assistance that they can. As far as funding is concerned, we have no funds to offer at this time but we have included them in our plans, yes. We feel that it is a very good opportunity.

Mr. EDGAR. Do you plan any interagency agreement or document with them on that?

Mr. PLOWDEN. I will ask Mr. Hall to answer that.

Mr. HALL. Actually, Mr. Chairman, even though there has not been an interagency agreement of any sort, personnel in our VES

staff, namely, Mr. Dennis Rhoades, who was formerly with the White House Veterans Federal Coordinating Committee, has spent a great deal of time with the ACTION people working on the overall objectives and the down-the-road planning for that particular program.

He has made several visits to cities in the immediate area where the Veterans Outreach Community Service programs were in place under the previous White House Veterans Coordinating Committee program. Baltimore is an example. The ACTION people went there, met with the mayor's veterans program's people with whom they had worked before. So although there isn't a formal document, we have loaned to them on several occasions the personnel whom we felt would be helpful to them, and we are working very closely. As recently as yesterday there was a 2-hour meeting with Jack Wheeler and some of the people from the ACTION program.

Mr. EDGAR. Are you going to give them any money?

Mr. HALL. Tell me where to get the money and we will. There has not been any indication that there will be any money. We have not been advised of the availability of any money to support the program.

Mr. EDGAR. I know a couple of rich Senators who might make a contribution under the spirit of voluntarism. Let me ask you a question that I have to ask given the fact that there has been certain legislation introduced in this area.

As you know, legislation has been introduced in the past which would transfer the functions of the Veterans Employment Service to the Veterans' Administration. Observing the current deterioration of Veterans Employment Services over the past several months, do you feel that you could be in a stronger position if your program and the entire Veterans' Employment functions were transferred to the Veterans' Administration?

Mr. PLOWDEN. No, sir, I do not.

Mr. EDGAR. Can you give some specific reasons?

Mr. PLOWDEN. We have a well-organized and well-setup organization and plan. I don't feel that that would improve it in any way. I think it would confuse the veteran with employment responsibilities going to them. Certainly in the Veterans' Administration, they are primarily interested in health claims and pension areas. Mr. Hall may have some comments that he might want to make to that, too.

Mr. HALL. Well, Mr. Chairman, I would run the risk of disagreeing with you with the word deterioration of the Veterans Employment Service in the last few months. I think that one of the things that needs to be considered, and we have been all through this business of transferring VES to the Veterans' Administration previously—I think one of the things that needs to be considered is the climate, the budget restrictions, the overall attitude through the Nation and the overall approach to the employment problems everywhere.

We think that with the appointment of the Assistant Secretary, the creation of that office, the direction that we will be getting from that office and the cooperation that we will be getting from the other Federal agencies, one of the worst things that we could consider would be to totally move this operation, which is linked in

with the present delivery systems in the field, to another agency whose role is not that of employment.

Mr. EDGAR. Let me ask you a question. Let me play David Stockman.

Mr. HALL. Yes, sir.

Mr. EDGAR. I have looked at my $109.1 billion deficit for 1983. I have looked at my commitment of $1.5 trillion for defense over the next 5 years. I have looked at my commitment for tax reduction, looked at the President's statement about no tax increases to pay for the defense increase. I have looked at the entitlement programs and discovered that they are difficult politically to cut because certain people are covered who have pretty strong lobbying efforts.

So I go to the discretionary part of the budget and I find this program in the Department of Labor that has a good title and a good focus but is something that we just can't afford. And so I am looking at this as David Stockman, and have decided that we are going to eliminate all of the funds for your agency, for your Department, for your focus on Veterans Employment Services. We are going to say if that responsibility is done at all it ought to be done by the private sector, it ought to be done by the State and local governments, but the Federal Government can't afford it because we have made our commitment to the defense buildup and the tax reduction, so your program is slated for elimination October 1, 1982, for the 1983 fiscal year.

How would you defend to the President and to David Stockman the reasons for existence of your agency?

Mr. PLOWDEN. I feel that we have a national obligation to the veterans. I feel that we will be treating them less than right to take any services away from them. I feel that the veteran himself is a part of the national makeup of America, and certainly a part of the national defense of America. We have an obligation to them, and I don't feel that we can fail on that obligation.

Mr. Hall has something else.

Mr. HALL. Mr. Stockman, I would assume from what you are saying that you would intend then that the role or the services provided by the Veterans Employment Service would, under the New Federalism move, be transferred to the individual States or to the private sector.

Mr. Plowden had started to say something that I think has been very evident to us for the past few years; namely, that the Federal Government has the responsibility to insure that veterans receive employment. The national posture of the Federal Government created the veteran, and our experience in the last few years in administering the disabled veterans Outreach program and the targeted technical assistance program in dealing with the people in the local levels, the Governors, the mayors, and so forth, we have found that their attitude is that veterans are a Federal responsibility. When various types of block grants are put out into the individual States, the States consider that that is their money to spend in their States and that the veterans program should be sponsored and supported by the Federal agencies.

To begin with you are going to have to have two things. You need a labor exchange for the trained veteran who is job ready and who needs a job. Second, you need some training programs to assist

the non-job-ready veteran. The Employment Service has provided this support by the Federal Government funding. I do not foresee that you are going to get this kind of support for the veterans programs from the communities. Then, if they are not getting it out in the communities, the hundreds of thousands of veterans in the communities out there and the 16,000 American Legion posts, the 10,000 VFW posts, and approximately 2,500 Disabled American Veterans chapters are going to be ranting and raving all over the place. So you are going to have the same problem, whether funded at the national level or transferred to the States. I don't see that you are going to have that kind of success in doing that.

Mr. EDGAR. You are saying that veterans are a national responsibility and should not have their programs abdicated to the States?

Mr. HALL. You hear me right, sir. Yes.

Mr. PLOWDEN. Mr. Chairman, there are two points I really want to make. First, I hope that you realize and see that this job I have is brand new. I feel that I need some time to develop what I think you would want for the veteran, and I think that it can be done without any question. I think that by virtue of the fact that this program has not been cut by the President points out that the White House at least feels like we still have an obligation to the veteran and that this is probably the place that we need to accomplish this particular thing.

Mr. EDGAR. If I could interrupt you, I appreciate your targeted comments, but I think the record has to be clear. It was cut. What we are talking about in the supplemental is a restoration of the dollar commitments for this program, but the program was cut, not by the Carter administration and not by the Ford administration, but by the Reagan administration, and now I think the recognition is clear that the program through the supplemental is being restored.

Mr. PLOWDEN. That is true, but I am speaking particularly of VES. They have never cut that. It was in the original part. Another thing that I think should be brought to the attention of the committee is the fact that I do have access to the Secretary.

This was not true I don't believe in the past administration. I think you couldn't see the Under Secretary, much less the Secretary. The position has given us an opportunity now to give strength to the veterans programs and to speak totally for the veteran as far as the Labor Department is concerned and as far as the Secretary is concerned. I feel that we need just a little time and opportunity to really perform for the veteran to prove that this is the place that we need to be, sir.

Mr. EDGAR. I yield to my colleague, Mr. Daschle.

Mr. DASCHLE. I just have one question and it goes to Mr. Gonzalez. I was interested in your comments with regard to your position. Could you tell me, who is your boss within the system?

Mr. GONZALEZ. My boss is Mr. Donald Dotson, the Assistant Secretary for Labor Management Services Administration, and of course his deputy, Mr. Ronald St. Cyr.

Mr. DASCHLE. I don't quite understand, given your responsibilities, why your boss shouldn't be Mr. Plowden. What explanation do you have for reporting to someone who has nothing to do with veterans issues?

Mr. GONZALEZ. Because I have to operate within the statute that I have, and as provided by the Secretary.

Mr. DASCHLE. Do you think it makes any sense?

Mr. GONZALEZ. Under the circumstances, yes.

Mr. DASCHLE. How is that?

Mr. GONZALEZ. Right now the delegation of authority for my program is to the Assistant Secretary of Labor for Labor Management Relations.

Mr. DASCHLE. Do you think it makes sense to delegate that authority in that direction?

Mr. GONZALEZ. Yes.

Mr. DASCHLE. Instead of putting the emphasis on veterans issues, you are deemphasizing that and redirecting the emphasis to something other than veterans?

Mr. GONZALEZ. Do you want to know my position about consolidation?

Mr. DASCHLE. That is what I am asking.

Mr. GONZALEZ. The program that I have has been operating quite well for a long time, certainly before I got it, and I hope it is going quite well now. I think it is. It was operating very well before my agency received it back when it was operated under the Bureau of Veterans' Reemployment Rights, and one good feature that it received when it came under LMSA was that its reach was expanded manifold. Whereas before it had only roughly 86 or 97 staffers nationwide, including the national office. Now we have—in the field and in my office—in excess of 150 people serving the program.

To make my response short, under the circumstances, I think it is operating quite well.

Mr. DASCHLE. But you haven't told me anything that wouldn't work just as well if you directed your responsibilities directly to Mr. Plowden. What concerns me is we have too many policymakers within the higher echelons of the agency, and that the right hand does not know what the left hand is doing, and obviously your allegiance to Mr. Plowden is absolutely nil in the sense that you owe him no direct accountability.

It seems to me from a veteran's point of view again we have a case of too many chiefs, too many cooks in the kitchen and no direct accountability for problems and policies articulated from the Department of Labor. I would hope, Mr. Plowden, in your reorganization you would take that into account. It seems to me to make sense to consolidate veterans responsibilities under one person. That is exactly what I think we need to do and I would hope that you would address that in a positive way.

Mr. PLOWDEN. Mr. Daschle, I have talked with Assistant Secretary Dotson concerning this and we are looking at it as far as reorganization is concerned and considering that. We hope that we can work out some agreement that at least we have a line of communication there and prevent duplication. So I feel that something will be accomplished, and I will keep the committee and you informed on this issue.

Mr. DASCHLE. Thank you, Mr. Chairman.

Mr. EDGAR. Mr. Plowden, you state the Department of Labor has no position on H.R. 5209 at this time. This bill relates to how long an employer is required to grant an employee who is a member of

the National Guard or Reserves a leave of absence in order to allow the employee to perform a required act of duty for training. What is the maximum period under the present law which an employer is required to grant an employee to perform required active duty for training in any period up to 12 consecutive months?

Mr. PLOWDEN. I will let Mr. Gonzalez answer that.

Mr. GONZALEZ. This issue has been of great concern to us for some time. Of course the administration's posture on this, on the bill is contained in Mr. Plowden's advance statement. I would nonetheless like to make some observations and express some concerns that we have.

As you know, this statute has been around quite a long time, and for 40 years or so we have been toiling for veterans, and for 20 of those years we also have been toiling for reservists. What I am about to say I hope is not taken as a bias against reservists. If anything the greater amount of criticism that we receive is that we are too biased in favor of reservists, and that is all right with us. We accept that criticism.

Part of the concerns that we have here is that on looking at the statute as it is now, apparently it needs some clarification because it doesn't specify the extent of protection for reservists. Right now reservists in fact can be away for an entire year and come back a few days and go again. If I may say so, I don't think the intent of the current statute was to so impact an employer to the extent that he could not function anymore.

By the same token, I do not think the authors of the current statute intended to create a situation where because a reservist can go in and out of that employment so frequently and for such long stretches of time that you could have a situation where the individual was actually holding two full-time employments, one in private industry and one in the military, raising a question of who is he really working for. In some instances appearing to holding a position in private industry hostage while he was serving in the military.

Mr. EDGAR. You sound like you think that this is a problem because of unclarity in the law.

Mr. GONZALEZ. Yes, sir.

Mr. EDGAR. Mr. Plowden, in your considerations of legal changes, are you making any recommendations in this area?

Mr. PLOWDEN. We will be, sir; yes.

Mr. EDGAR. Thank you. Let me just make a short statement and then any of you may respond or give any kind of summary comments that you would like. I would like to begin by thanking each of you for taking the time. It has been a longer hearing, at least in the initial stages, than we had anticipated, but I wanted to cover as many areas as possible.

Getting back to my opening statement, particularly in the area of the supplemental and the importance of the DVOP program, President Reagan stated very plainly when he shut the entire Federal Government down last year for 1 day. He criticized Congress saying is this any way to run a railroad? I think perhaps the same epitaph should apply to him in the case of the DVOP's, and that is that we have sent the wrong signals at the wrong time for the wrong reasons and we have put the morale, and the security of lots

of people on the line, and people are nervous enough about the shift from New Deal to New Federalism.

People are nervous enough about the specifics of where we are going as a nation. I would just urge you as you work with the Secretary of Labor and as you work with the President, as you work with the Office of Management and Budget to learn from the lesson of the last year. If in your comments you are telling the truth about your feelings about the importance of the program that you have been given the mantle to administer, then I think we need your active and agressive support within this new administration to tone and shape those programs to make them effective for the people that you are trying to serve and to make them effective not only for the veterans, particularly the Vietnam veterans, but also to make them effective for the people who serve in Government, public service. I think at least the message we have sent to all of them, whether it is by the President's State of the Union or by actions we have taken with RIF's and bumping is that you are not very important to our society. I would hate us to really believe that message, that Government is evil and that Government does not have a role to play in our national defense or in our human services or in our administration of those human services to people who have real needs, veterans, elderly, people who are falling through the cracks.

So I would just urge you as you take on this new responsibility to remember the lessons of 1981. Thank you for your testimony today.

Mr. PLOWDEN. Thank you, Mr. Chairman. I appreciate those words, and I feel that the fact that I wasn't permitted to come on this job until approximately December 10, I haven't had, due to the holidays, the recess and all, I haven't had too much opportunity to really act. But I feel that I have been very active in supporting the employment service and the DVOP program. I think that many people have heard my views personally on these things, and I assure you that I will be very active from here on in trying to be of service to the veteran and certainly in protecting the people in the field that work for them.

I think that we have learned a lesson that we won't forget. I want to, in closing, take this opportunity to welcome the committee in coming to me with anything that you think that I would need and I would like to have the opportunity of visiting with you often to discuss these affairs, and I certainly will take back any messages to the Labor Department and the administration that you feel is necessary. So thank you very much for this opportunity to appear this morning.

Mr. EDGAR. Thank you very much.

Mr. EDGAR. I would like to welcome as our next witness—I hope someone from the Labor Department will stay and listen.

Mr. PLOWDEN. Members of my staff will be here.

Mr. EDGAR. Thank you, Mr. Plowden.

We have as our next witness Mr. William L. Heartwell, Jr., executive vice president of the Interstate Conference of Employment Security Agencies, Inc. He is accompanied by two gentlemen. I wonder if you would either introduce them or have them introduce themselves for the record, and we will begin with your statement.

STATEMENT OF WILLIAM L. HEARTWELL, JR., EXECUTIVE VICE PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC., ACCOMPANIED BY MUDO JUROVICH, CHAIRMAN, ICESA VETERANS' COMMITTEE, AND EXECUTIVE DIRECTOR, WYOMING EMPLOYMENT SECURITY COMMISSION, AND ALAN LAFFERMAN, EMPLOYMENT SERVICE PROGRAM ASSOCIATE, ICESA

Mr. HEARTWELL. To my left is Mudo Jurovich, the director of the Wyoming Employment Security Division. He is here in the capacity as chairman of the Veterans' Committee of the Interstate Conference. To my right is a program associate with the Interstate Conference, Mr. Alan Lafferman.

Mr. EDGAR. Thank you very much. We apologize for the delay in hearing your statement, but I think you can understand why we wanted to take as much time with the Department of Labor as we could. You can either read your statement or submit it for the record and we will proceed at this time.

Mr. HEARTWELL. We would prefer to submit the statement for the record and make a few informal remarks, and then answer questions that the subcommittee may have.

I would like to state that the Interstate Conference represents all 50 of the States and the jurisdictions of Puerto Rico, the Virgin Islands, and the District of Columbia in practically all employment security matters. We are vitally concerned with veterans' affairs. It is a mandate of the job service under the Wagner-Peyser Act and subsequent legislation that veterans receive services; and we believe that our membership works very diligently toward this end.

I would also like to say that we have had the opportunity to meet with the new Assistant Secretary for Veterans' Employment in the U.S. Department of Labor on several occasions to discuss mutual concerns, including ways of improving services to veterans.

Mr. Chairman, of extreme interest to us is the restoration of the cuts that have been previously made by this administration to the Employment Service. Our remarks today are directed at this issue, as well as the need for stability in our system in future years.

Mr. Jurovich has been very much involved in veterans' affairs in his State and on the national scene, and has previously testified before this subcommittee. He has some remarks he would like to make. So at this time, with your permission, I will ask him to do so.

Mr. JUROVICH. Mr. Chairman, in the last 24 hours the administration has submitted a supplemental budget request for employment security programs which includes approximately $210 million for the job service. This is an effort to bring our system back to the October 1, 1981 operating level of 24,800 staff, although for those States that have encountered separation costs since December 15, the October 1 level will be achieved. Mr. Chairman, we urge you and the members of this subcommittee to support this restoration.

On a related subject, Mr. Chairman, we understand that there is a strong possibility that the administration's fiscal year 1983 budget will propose another reduction in job service funds which would, of course, have the type of devastating effect on our ability to service veterans and other clients, as outlined in my statement.

We therefore urge this subcommittee to continue support for adequate job service staffing levels in future years, as well as for fiscal year 1982.

[The prepared statement of Mudo Jurovich appears on p. 174.]

Mr. EDGAR. Thank you for your statement.

Mr. Lafferman, do you have a comment that you want to make?

Mr. LAFFERMAN. I will be here to respond to any questions that you may have.

Mr. EDGAR. What is the morale like out in the real world?

Mr. JUROVICH. I can only speak for my agency. The morale has been terrible, yet surprisingly the staff remain devoted.

Mr. EDGAR. What kind of uneasiness or questions are they asking out in the field?

Mr. JUROVICH. How long do I have a job, when will I get my letter telling me that I have 30 days? In essence, what is going to happen to me and my family in the future?

Mr. EDGAR. How deep is that fear in terms of years of service?

Mr. JUROVICH. It is quite deep, Mr. Chairman. In my own State, I was forced to dismiss our employment service director who worked for the State some 30 years. The recent cuts in funds reduced staff in the employment service division to such a drastic level that I was forced to make this decision, in order to retain three line staff. I assumed the responsibilities of the former ES director.

Mr. EDGAR. Do your State legislatures understand that it is now their responsibility to get all of these things that are being shifted back to them in the employment area?

Mr. JUROVICH. I made a plea to my State legislative appropriations committee for some assistance. I requested $300,000, which would have, I thought, carried me through October 1, 1982, and enabled me to keep service centers open. I was told that when you live by the Federal sword, you die by the Federal sword.

Mr. EDGAR. You state that 509,000 veterans were placed in jobs in fiscal year 1981. How many veterans applied for jobs in fiscal year 1981?

Mr. JUROVICH. I would like Mr. Lafferman to answer that question.

Mr. LAFFERMAN. I do not have the exact figures. I know they were over 2 million. I might add that the job service experienced a cut of $150 million following the administration's first budget submittal in March. If you include the DVOP at a 1981 staffing level of 1,500, we had 31,500 job service staff in fiscal year 1981. The first cut for fiscal year 1982 reduced the staffing level to approximately 24,800. This figure includes 2,016 DVOP staff since, as directed by the new administration, the DVOP was, for the first time, totally absorbed within the job service budget. If the most recent cut by the administration were implemented, job service staff would be slashed below the 13,000 staff year level.

The disruption in the field is just devastating. We have job service staffers who have been working, as Mr. Jurovich indicated, as much as 30 years, and have their job in jeopardy. Naturally, most of the DVOP staff have not, for the most part, been on the payrolls as long as the other job service staff. Therefore, AVOP specialists are usually the first to be separated or assigned to other positions. If they are fortunate, they may bump someone within their agency,

or perhaps another State agency with less tenure than they have. In most States, these types of actions are occurring because of requirements imposed by State merit system rules any regulations and/or union bargaining agreements.

The problem is that a dedicated staffer, and I am not only talking about the DVOP specialists, but also local veteran representatives (LVER's) may be separated or reassigned. Therefore, even with the proposed restoration, it will be difficult to bring this program back to some kind of stability. This applies to all job service activities, as well as those devoted to veterans. So we have a lot of work in front of us, but we remain dedicated and want to do what is right and needed for the veteran.

Mr. EDGAR. My staff complains that my temperament is such that I never get mad. Is this not an outrage?

Mr. HEARTWELL. I think so, sir. Our concern now, as pleased as we are with the prospects for the current restoration back to the October 1981 level, with the soon to be released 1983 budget.

If we soon reopen many of the thousand offices that have been closed, rehire a significant number of the personnel, and then have to go through another reduction for fiscal year 1983, this wrenching of the system would be devastating, and, perhaps the final blow. This would be an unconscionable act by the administration.

The systems and services that we provide may not be exemplary in every case, but we provide hope to a lot of unemployed and underemployed people. The fact that we placed 3.7 million people in jobs in fiscal year 1981; provide many types of special services, including counseling, testing and labor-market information—is ample justification for retaining the system at an adequate funding level, especially during hard economic times. If the Job Service is eventually eliminated, it would mean that we would be the only country in the free world without a labor exchange.

Mr. EDGAR. Mr. Drach in his testimony reports a quote from Hubert Humphrey that I would like to read: "If people understood the extent to which unemployment affects the suicide rate, the divorce rate, the crime rate, they would be a lot more inclined to do something about it."

I think that that statement by Hubert Humphrey should be underlined, underscored, and accentuated with a great number of asterisks, because I think you see in the field and in the front lines the fact that not just with the Employment Service personnel but the people that they deal with a rising level of fear and anxiety and feeling that public policy, whether at the Federal or State level, does not really care very much about their uncertainty. If we in fact move over the next 6 months to a July 1 date where unemployment is 10 percent, I think we are going to find ourselves with social problems, human problems that may far exceed any attempt to cut budgets. It may, in fact, exacerbate those budgets.

Let me ask just two more quick questions. Does the Employment Service keep records on the number of disabled veterans who are placed?

Mr. LAFFERMAN. We have records of that, but we did not bring that type of data with us. The Labor Department has recently compiled their fiscal year 1981 statistics, and I think within the last 2 days we got a copy. We can make that available.

Mr. EDGAR. It would be helpful if you could make that available for the record.[1]

Let me thank all of you for coming, and while we did not ask a lot of questions, I think your concise statements have on the record the real flavor of the problem at this point.

Mr. Heartwell, I think you were right in saying that it is not just an outrage, but it is unconscionable, and perhaps that is a better word. Thank you.

Mr. EDGAR. Our next group of witnesses should come forward at this time. Mr. Piekielniak, I will ask him to pronounce his own name. He is a former disabled veterans outreach specialist.

I would like you to introduce the people with you.

STATEMENTS OF A PANEL CONSISTING OF CHET PIEKIELNIAK, FRANKLIN L. GREENE, AND GERALD T. GUERIN, FORMER DISABLED VETERANS OUTREACH SPECIALISTS

STATEMENT OF CHET PIEKIELNIAK

Mr. PIEKIELNIAK. Thank you, Mr. Chairman. To my left is Gerry Guerin, past DVOP at Seven Corners, and to my right is Franklin Greene, past LVER and DVOP from Newport News and my old boss.

Mr. Chairman, I would like to state at this time that in the State of Virginia, there is no DVOP program. At this time with the dedicated people taken out of the program, and those that are coming in as DVOP's you stated earlier do not care about the program. I sometimes wonder if the State leaders care about veterans at all. Their Virginia RIF policies came out about the same time, whether it is coincidence or not. Depends from which side you're looking at it.

In May we became permanent and at the same time they started the RIF program. I asked if all this was just a coincidence last Tuesday at a meeting in Richmond to the associate commissioner. I never did get an answer. I was sort of shrugged off. They believe they are in violation of Public Law 96–466, title 38, 2003A, but they are making a stand.

I asked if it was an outright discrimination. As a matter of fact, when I requested this meeting, one of the first words was discrimination, and I believe it is. They do not seem to care. We were good enough to be disabled, had to be disabled to come on board as DVOPs, but we did not have to be to get fired and run off and be replaced by many incompetent people coming aboard as DVOP specialists with absolutely no feeling or care in the majority of the cases.

The program was good. We worked at it. We worked hard at it. Mr. Greene to my right was the recipient of a national DAV award as LVER of the year in Virginia, a first ever in the State of Virginia. Shortly thereafter he received his papers downgrading him to DVOP from LVER. As of January 29, 1982, 5 p.m., he is no longer a DVOP.

These are the kind of people that were in the program that are not there anymore. The program is hurting in Virginia. I know we

[1] Not received at time of publication.

were doing an outstanding job in Virginia, but nobody seems to care about it anymore. And the Department of Labor in the past—as far as I can see at our level they did not do a thing for us, did not try to help us. God knows maybe Mr. Plowden can do something now that he has the bull by the horns. He might be able to do it, but in the past, I cannot see that they have done a thing for the veteran in the DVOP program or in the LVER program. It has deteriorated badly in the past year, and even worse in the past 6 months.

Mr. EDGAR. Do either of your colleagues want to add to the record?

STATEMENT OF GERALD T. GUERIN

Mr. GUERIN. Yes, sir, Mr. Chairman. I am surprised to be here, because I heard about this meeting 2 days ago. I heard about this meeting, and I figured I am going to go check it out. Since I have been here listening to what the Department of Labor has been saying I can say to myself, no wonder the DVOP program is all messed up. Nobody knows what is going on. Nobody has any answers.

I myself went down to the State employment commission to see Mr. Dillon at the Employment Service in Virginia and try to get some answers. I had a lot of questions. We hear a lot, but we do not know anything for sure. On January 9 I held a press conference at The American Legion in Falls Church where I had the television and the press. I called every American Legion, VFW, DAV, CWV, Viet Vets of America, Jewish War Vets, everyone in our area for the purpose of telling them the problems we have, and that I could get not any answers to any of the questions I had.

As I say, this law is not being enforced, because DOL does not know what is happening. And you can also see, I feel quite strongly about the DVOP program, because I put 2 years of my life in it, and I have to agree with the chairman in his summary when he stated, the wrong signals went out. It is a shame that the information got out all messed up with the wrong signals, and it is a bad situation.

I heard the chairman ask Mr. Plowden about any change in the DVOP program. Gentlemen, you are looking at three ex DVOP's. DOL might not know, but we will tell you exactly what is going to happen. You are not going to get the dedication and the help that these Vietnam era veterans had in the past. I have a thick file of letters of thanks, praise, telephone calls, because they were very appreciative.

The State is coming along and saying we cannot afford that. You will handle nonveterans also. I say no, because the law is mandated for Vets only. I could have been fired, but I told them the way it is mandated, I am supposed to be working only with veterans.

Your question was is there going to be any change? Yes. I myself personally got 216 veterans hired last year, let us say an average of 20 workdays a month. Do you know what the average employment interviewer places? Anywhere from 5 to 10, because—I do not like to use the word bureaucrat, but they are sitting there with a fat job and just going through the motions. We DVOP's have been

down that road. We were in the service. We are disabled. We were out looking for jobs. We can understand that. So we work harder.

All right, now, there is another question or there was another thought that was given about DVOP's. What is happening is that DVOP's are being replaced by employment service interviewers with a lot more seniority, but they could not care less and will care less about the veterans.

In my ex-shop, the new manager states as to how they will work with nonvets. I talked to Mr. Dillon at the State VEC and he says, and I have the memo here about it, and I told him sir, you cannot do that. The DOL information I got says as to how we will only work with veterans. On the TJTC that was mentioned, it is a tool.

It is a tool for us just like the CETA program was a tool for us, but I could not hardly help any veterans in those programs because of the stringent qualifications. Because when they come out of the service they made *x* number of dollars, so consequently they could not fall in the income requirements or they come out low-grade—they were married and wife working for the Government and could not qualify. The only ones I could help were ex-felons. They would fall under TJTC and CETA, the only ones of the Vietnam veterans that I know.

I learned down in Virginia at the State commission that there was something like $40,000 they just came up with. They took so long in going out to the prime sponsor companies and asking if they wanted to stay in the program to train vets—they waited so long—it was 40,000 that the State got, but why did they wait so long? They could have done this a long time ago.

There was a question brought up, Mr. Chairman, whether it might be better if the DVOP program went under the VA. I think that should be given a lot of thought. I am inclined to agree to go with the VA, because I can relate with the term Veterans' Administration. I do not relate to the Department of Labor. I relate because I am a veteran. That guy I am working with, he knows what the hell my problem is, not DOL.

I think Mr. Hall made a statement, also—I think you, Mr. Chairman, you asked Mr. Hall if he thought perhaps the functions of a DVOP might go to the States. Mr. Hall said that there is a possibility that they could and probably they should, even not being funded. If that happens, believe me, ladies and gentlemen, it will never work, because I just cited a couple of instances. The State could not care less. If they do not have the funds, they will take care of the general public. They have to have funds for that. Veterans is secondary. It will not work.

Thank you.

Mr. EDGAR. Let me say before we go to your other colleague that we have discovered after long years of sitting and listening to witnesses that the statements that come from the heart are often the most important, and so you should not apologize for lifting those statements out today from the depth of who you are as an individual. They are very helpful.

Please state your name.

STATEMENT OF FRANKLIN L. GREENE

Mr. GREENE. Frank Greene from the former Virginia Employment Commission. I started with this program back as one of the first DVOP's in April of 1977, and through luck or skill or something after about 3 months I was acting local veterans employment representative, and in December of 1977 I became the local veterans employment representative for a three-county area plus the city of Newport News. I am proud of my record. You asked if there was any records kept of how many disabled veterans were hired. I have records for the last 4 years of what we have done. I have also headed up the job service improvement program for our peninsular area, and in that capacity we formed the Employers Advisory Committee. This was an additional job as well as being the veterans' employment representative.

We have established in that area the greatest rapport with employers I have ever seen. I have had about 50 phone calls in the last week. I got seven that got notifications I was no longer in the program but wishing me well and sorry to see me go from employers. I take these things as something I can remember and the DVOP program was not in vain.

I will not comment on whether the VA can handle this better or the Employment Service. The Employment Service is in place, and if it was used properly, that would be the place to keep it. I do know, though, that the public law says that the DVOP's, the 2,016 that should be in position, shall be, and they come right down the line, first disabled Vietnam-era veteran, then disabled veteran, then Vietnam-era veteran, and then veteran. If they are available, it says the Secretary shall insure that this goes on.

In my home State they have completely apparently disregarded that. They have also disregarded the fact that they were told to have 48 DVOP's on board under the new funding. We had 25, and that is what we shall keep. I have a letter here saying that. No more will be hired on. Funding can——

Mr. EDGAR. Will the gentleman yield? Can you supply a copy of that letter for the record?

Mr. GREENE. Yes, sir.

Mr. EDGAR. Without objection it will be made part of the record.

[The information follows:]

VIRGINIA EMPLOYMENT COMMISSION,

INTER-OFFICE COMMUNICATION

To: Local office managers.
From: Director, Employment Service.
Subject: DVOP staffing.

There will be no change in the number of DVOP positions after February 1, 1982. Staffing for this program will remain at the current level of twenty-five (25) positions statewide with none of the staff being outstationed.

Individuals filling these positions will continue to give priority to veterans. However, if there are no veterans in the office waiting for service, then those in DVOP positions may serve non-veterans.

W. F. DILLON, JR.

Mr. GREENE. I hereby request that the following statistics regarding veterans' services and indicators of compliance, as they relate

to the Newport News, Virginia area, be made a part of my remarks at this point.

Mr. EDGAR. Without objection, it is so ordered.

[The following was received for the record:]

FISCAL YEAR 1981 VETERANS' SERVICES INDICATORS OF COMPLIANCE, NEWPORT NEWS, VA.

	New applications and renewals	Placements	Counseled	Job development [1]	Inactive [2]
Veterans and others, wives, etc.	3,564	757	278	1,123	2,297
Vietnam era	1,666	344	135	535	1,094
Disabled	194	49	40	74	162

[1] Job development refers to discussions with private companies on behalf of veterans and other eligibles.
[2] Inactive means veterans and other eligibles have had some form of counseling, training or have been placed in a job.

Mr. GREENE. I want to congratulate the people here about their objectivity, especially the gentleman from South Dakota. I thought he had some mighty fine questions. I was a little surprised. I have never been to one of these things before, but you know what you are talking about. You have asked some very astute questions.

Mr. EDGAR. I have a very astute staff. Do not go away thinking Congressmen are real bright.

Mr. GREENE. Bill Heartwell is a former commissioner from Virginia and a very learned man. I do not have too much more to say. I want to say again I am proud of my record and I am proud of these gentlemen here. I can make it without this job. I am retired from the military, 28 years. Chet has 27—I do not know about the other gentleman. Maybe we are all disabled veterans, 70 percent, et cetera, from various things. I relate real well to the young Vietnam-era veteran. I served with them right there. They did, too. In fact, I feel like a father to them. I am glad to see this hearing going on.

Thank you very much.

Mr. EDGAR. I appreciate your statement, and seriously, the staff of the committee is very dedicated to try to sort out the confusions, the complications, to end the yo-yoing that goes on with public programs. One of our problems is that the democracy that we have is a series of committees that meet in different rooms, some in small subcommittees, some in full committees, some in the House, some in the Senate, but nothing happens unless more than half of us say that it should happen, and get the President's concurrence.

Once the law is passed establishing the DVOP programs and it is laid on the President's desk and signed into law, all kinds of things happen to it. We have a Secretary of the Department of Labor who has to administer the program. We have an annual budgetary process. The tragedy we are exposing in the hearings is the yo-yo effect described by an earlier witness, the fact that not only has the problem existed at least over the last year of reduction in force and now in the last 24 hours a restoration of funds proposed, and that restoration will go through a supplemental process here, but even after we put that back in place, what I hear you describing today is that there is going to be some suspicion on the part of people like yourself and others out there who might come up to speed and learn the kind of success and abilities that you have demonstrated

who simply will hesitate to come within the Veterans' Employment Service or the DVOP program simply because they are not sure what 1984 or 1985 funding will look like, and there is this need I think in employment services for consistency.

It sometimes feels like we try to put handles on Jello, because we like to reach across the desk and speak very directly to those who administer the program, and I am sure they in many instances would like to talk very frankly to the people who authorize and indicate how much money will go to the programs, so that this kind of discrepancy and inconsistency does not happen. It is very frustrating, and your frustration at the grassroots level really is at the heart of the anxiety and frustration over what the future holds for this particular program.

One of your colleagues, a former DVOP specialist, Miss Carol Daughtridge, who was to testify here today, said in a letter addressed to me that because of the wide-scale personnel reductions within the DVOP program, many qualified DVOP personnel have lost their jobs and these positions have been given to more senior employees. She states, ". . . a lot of 'dead wood' is being kept who lack the energy and belief that helping applicants is more important than just taking home a paycheck."

Would you agree with that statement?

Mr. PIEKIELNIAK. Yes, sir, I would. I think Carol put it rightly.

Mr. EDGAR. Without objection, I would like to put Carol's whole letter into the record at this point.

[The letter of Ms. Daughtridge follows:]

JANUARY 28, 1982.

Congressman BOB EDGAR,
Rayburn House Office Building,
Washington, D.C.

To Whom It May Concern:

According to the Virginia Employment Commission, I am 2193 and considered SURPLUS. As a result, effective February 1, 1982, I will be layed off. Until that date, I am the Disabled Veterans Outreach Program interviewer for the city of Virginia Beach. I have been with the state of Virginia for two years including six months with the Health Department as an Outreach Worker. As a result of being layed off from that position July 1980 due to federal budget cuts, I took several state merit tests and scored high enough to be considered for VEC employment. I began as a DVOP in the Hampton office November 10, 1980 and then transferred to Charlottesville to become the LVER (local Veterans Employment Representative). I missed the Tidewater area and requested a transfer back and thereby became the DVOP for Virginia Beach on May 1, 1981.

Over the past year, I have grown to enjoy my work and feel confident at my position. I have wanted to work with veterans from the beginning and have been fortunate to do so.

I was hired as a DVOP because I scored well on the merit test and was a 30-percent disabled Vietnam era veteran. I have lost my job due to budget cuts and lack of seniority. I understand that layed off DVOPs can be replaced by vet[illegible] not necessarily disabled or Vietnam era. This procedure is in violation of the D[illegible]OP policy. At a time when suitable jobs are difficult to find, disabled veterans ar[illegible]being given the heave-ho in preference to veterans or possibly even non-veterans to fill positions that should go to disabled veterans. In so[illegible]nstances a disability can make it more difficult to get a job. In my case, my di[illegible]ility does not interfere with my ability to work, but when a prospective employer asks how much time I've lost from work in the past year due to my service connected disability, 3 hospitalizations consisting of six weeks plus time at home for recuperation will not impress that employer.

I am just one person and of the 25 DVOPs in Virginia, I am not sure how many have been layed off. From one source, I was told all 25 would be gone and yet from

another, I was told this was incorrect. I know of at least five other DVOPs in my situation. Even if the layed off personnel does include all 25, the real shame of this involves much more than just DVOPs. I see veterans daily who come into the office expecting to be interviewed by fellow veterans—someone who can empathize with them and speak their language. Veterans preference is a laugh. In most cases it means very little to employers and now the Virginia Employment Commission ignores the needs of these veterans by making them go longer distances to a local VEC office for service, longer waiting time to be interviewed, and in some cases, being interviewed by someone who doesn't understand the language of the military (rate, rating, mos, etc.) or could care less about veterans preference.

From where we lowly employees sit, there seems to be little justification as to who is going and who is staying. If it's based entirely on seniority, then a lot of "dead wood" is being kept who lack the energy and belief that helping applicants is more important than just taking home a paycheck. I know what it's like to be unemployed and a disabled veteran, and I feel this knowledge has helped me to work with my applicants. I only hope that those DVOPs replacing the layed off ones will have as much empathy and understanding as those of us that are being ousted.

I am sorry that I cannot be in Washington to personally testify for DVOPs. I am presently recuperating from surgery for my service connected disability of Crohn's disease. I wish you well and find it gratifying that someone really cares about DVOPs. If I can be of any further assistance, please let me know.

Respectfully,

CAROL A. DAUGHTRIDGE.

Mr. EDGAR. In addition, I would like to have made a part of the hearing record correspondence from Mr. Lennox E. Gilmer, of the State of Colorado, Disabled American Veterans, regarding the status of the disabled veterans outreach specialists for the purposes of hiring and retention as State employees. I believe this correspondence speaks for itself, with the bottom line being that DVOP specialists, in any reduction in force, do not have retention rights over other qualified veterans or other persons with greater seniority in that State. Consequently, the proposed reduction in personnel in the Colorado Department of Employment and Training will result in most, if not all, DVOP specialists being laid off as a result of these budget cuts with their jobs being taken over by other veterans, and in most instances nonveterans who have little or no experience or background with veterans' programs.

[The material referred to follows:]

DEPARTMENT OF COLORADO,
DISABLED AMERICAN VETERANS, INC.,
Denver, Colo., January 25, 1982.

GOV. RICHARD LAMM,
Colorado State Capital,
Denver, Colo.

DEAR GOVERNOR LAMM: Title 38 U.S. Code was amended by Public Law 96-466 which added section 2003A concerning the Disabled Veterans' Outreach Program. In compliance with that law the U.S. Department of Labor funded the Colorado Division of Employment and Training for 29 additional staff above those that would have otherwise been funded for fiscal year 1982. Those 29 staff positions were to be used solely for the DVOP program.

Section 2003A(a)(2) mandates the following:

"Each such specialist shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran."

Clearly the law mandates that preference to disabled Vietnam era veterans, disabled veterans and then, finally, veterans, be given in appointment to those 29 DVOP positions, regardless of the method of appointment.

Mr. John Kezer, Acting Director, Colorado Division of Employment and Training, in a December 16, 1981, meeting indicated that the preference required in the Fed-

eral law was being adhered to in initially filling the positions and had been adhered to during reductions-in-force through the period ending September 30, 1981. However, due to the budget cuts resulting from the December 15, 1981, continuing resolution there would be additional reductions-in-force in which only veterans status would be considered—not the Vietnam era disabled, disabled veteran preference previously cited.

We believe that a failure of the State of Colorado to accord preference to disabled Vietnam era veterans, and other disabled veterans in a reduction-in-force violates section 2003A of title 38 United States Code.

At the time that the U.S. Congress passed a continuing resolution providing increased funding for the DVOP program, it also included an administration proposed 12 percent budget cut retroactive to October 1, 1981, in the total U.S. Employment Service budget. That continuing resolution was signed by the President on December 15, 1981.

That 12 percent budget cut has for Colorado, translated into a 42-percent cut from about March 15, 1982 through September 30, 1982. Reportedly the subsequent reduction-in-force will cause lay-off notices to be sent to employees hired as early as 1965. The Vietnam war is legislatively recognized as beginning August 5, 1964. Thus, virtually all Vietnam era veterans are likely to be laid off during the reduction-in-force now in place.

Unless the Colorado Division of Employment and Training provides reduction-in-force preference to Vietnam era disabled veterans and disabled veterans in the DVOP program there may be none in those positions following this reduction-in-force in violation of title 38 United States Code section 2003A.

We hereby object to any failure of the State of Colorado to implement reduction-in-force preference to Vietnam era disabled veterans and disabled veterans in the DVOP positions and seek your direct involvement in aiding us to obtain a favorable resolution to this problem.

Sincerely,

PERCY NEWELL.

U.S. DEPARTMENT OF LABOR,
Denver, Colo., December 2, 1981.

JOHN KEZER,
Interim Director, Colorado Division Employment and Training,
Denver, Colo.

DEAR JOHN: This will confirm our telephone conversation of November 30. As you recall, you had asked me what our position was regarding staffing and appointment of Disabled Veterans Outreach Program (DVOP) Specialists.

Section 506 of Public Law 96-466, Veterans Rehabilitation and Education Amendments of 1980, amended Chapter 41, Title 38, U.S. Code by adding a new section 2003A to establish a permanent Department of Labor funded Disabled Veterans Outreach Program. Section 2003A(a)(1) stipulates that the Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as are necessary to support DVOP. The Administration's budget for fiscal year 1982 proposes that DVOP will meet the 2,000 staff level mandatory in the law and establishes by GAL 26-81 that DVOP will be absorbed within the Grants-to-States funds which include allocations authorized by legislation in addition to Wagner-Peyser. Region VIII GAL No. 81-49 regarding fiscal year 1982 State agency resource planning targets established 29 positions as the DVOP allocation for Colorado. This position allocation was based on the staffing formula of the appointment of one disabled veterans outreach specialist for each 5,300 veterans of the Vietnam-era and disabled veterans residing in the State.

In researching the array of documents cited above, I have no option but to require that you take the necessary steps to staff DVOP up to the 29 position level by December 31, 1981.

With respect to the appointment of DVOP specialists, the legislation requires that each such specialist shall be a veteran. Perference shall be given in the appointment of such specialists to disabled veterans of the Vietnam-era, second to other disabled veterans, and finally to any veteran. GAL 18-81 of April 10, 1981, in implementing Public Law 96-466, states that the objective of the appointment preference must be achieved within the framework of the State's own merit system. You, and all Employment Security agencies, are subject to the standards for a Merit System of Personnel Administration (5CFR900F) and have been found to have acceptable

plans for determining minimum qualifications for positions within your agency by the Office of Personnel Management.

Both the legislation and all other guidance on this issue speak directly to the appointment of DVOP specialists and not to any lay-off process that might be employed during a period of budget and staff reductions which you and others in the system are now facing. Under these circumstances it is clear that DVOP positions must be occupied by a qualified veteran and that any application of preference for the other cited veteran categories must be subject to the provisions of your own State's merit system. Accordingly, determinations made by Colorado State Merit System officials on the qualifications of DVOP specialists will be acceptable.

I believe the above responds to the questions you raised with me.

Sincerely,

FLOYD E. EDWARDS,
Regional Administrator.

THE STATE OF COLORADO,
DEPARTMENT OF LAW,
Denver, Colo., November 23, 1981.

MEMORANDUM

To: John Kezer, Interim Director, Division of Employment and Training.
From: William Levis, Assistant Attorney General, Human Resources Section.
Re Opinion request on status of disabled veterans outreach program.

On October 15, 1981, you sent a letter to J. D. MacFarlane, Colorado attorney general, requesting a formal opinion concerning federal funding and employment requirements for the disabled veterans outreach program (DVOP), 38 U.S.C. 2003A. Richard Hennessey, deputy attorney general, responded to your request by letter dated November 2, 1981. In that letter, Mr. Hennessey indicated that this office hoped to respond to your request by November 30, 1981. Since that time, I have met on two occasions with Wendell Pryor and Jeanne Ricker of your personnel staff and have discussed the request with you twice by telephone. As a result of those discussions, it has been agreed that this office would only provide an informal opinion at this time. In addition, as a result of the last meeting with division personnel, this opinion will contain only general information relating to the validity of DVOP hirings in light of staff cutbacks that the division must make in order to live within its budget. Because you need this opinion by November 23, 1981, this office has agreed to provide this memorandum by that date.

It is the opinion of this assistant attorney general that since additional monies have not been provided by the federal government for the required additional DVOP positions, thus necessitating the elimination of division staff in other areas, the division must follow the layoff procedures required by the Colorado Constitution, art. XII, sec. 15(3), and the rules and regulations of the Colorado State Personnel System, rule 9-4-1, in staffing the DVOP positions. This opinion is only that of this assistant attorney general and does not represent the formal opinion of this office.

The basis for this answer to your questions is many faceted. Congress passed the DVOP in October, 1980. This act mandates that states hire so many DVOP specialists, based on a formula found in the law. In Colorado, the state is required to hire 29 DVOP specialists. The division presently has 11 or 13 specialists in the program. All are disabled Vietnam era veterans (DVEVs). Section 2003A(a)(2) of the act requires that all specialists be veterans and that preference in hiring first be given the DVEVs, then to other disabled veterans, and finally to other veterans. Section 2003A(a)(1) states that the Secretary of the U.S. Department of Labor shall make the funds available to support the program. Section 2003A(a)(4) specifies that the specialists hired under this statute are in addition to the local veteran employment representatives (LVER) stationed in the local job service offices under section 2004.

Although no specific funds have been appropriated by Congress effective October 1, 1981, for the DVOP positions, the Secretary of Labor has ordered the division to fully staff under the program. The division is concerned about this mandate since the Wagner-Peyser Act, under which most of the Division is funded, has a restriction in its FY 1982 appropriations that such funds cannot be used to fund the DVOP specialists or LVERs. The Director of Veterans' Employment Service for the U.S. Department of Labor (DOL) issued a memorandum on September 1, 1981, mandating that states fund the DVOP and LVER positions out of monies in the Employ-

ment Security Administration Account in the Unemployment Trust Fund. That memo ordered states to hire specialists from grants-to-states funds.

Much of the confusion surrounding the DVOP program revolves around the restriction passed by Congress in approving the fiscal year 1982 budget under the Wagner-Peyser Act. In a report prepared for the Interstate Congress of Employment Security Administrators (ICESA), that organization's legal affairs committee took the position that not only were funds not accessible under Wagner-Peyser but that funds also were not available to the states for veteran services under the Federal Unemployment Tax Act (FUTA). The committee based its conclusion on an analysis of subchapter IX of the Social Security Act (SSA). That analysis determined that unemployment trust fund monies most likely could only be used for limited veteran services, not including DVOP specialists, pursuant to 42 U.S.C. 1101(c)(1)(A)(iii).

Although this analysis appears to be fully supported by the section cited, the committee failed to consider another subsection in reaching its conclusion that FUTA monies could not be used to employ DVOP specialists. (As an aside, not only would the ICESA analysis prohibit the use of FUTA funds for DVOP specialists, it also would prohibit their use for LVER which also are required under Veterans' Employment and Readjustment Act of 1972.) The subsection that the ICESA committee failed to consider, 42 U.S.C. 1101(c)(1)(B)(iv), authorizes the expenditure of FUTA funds for those veteran services that Congress deems appropriate. In the present case, it is clear that Congress deems the expenditure of funds appropriate because that body mandated in 1980 that the Secretary of Labor make funds available to hire the necessary DVOP specialists.

It is my understanding that these funds were already being used to staff other positions in job service centers. Increasing the number of DVOP specialists will necessitate the transfer of funds and therefore the reduction of staff. This means that the division will have to lay off a number of individuals in order to accomplish the DOL directive. Although section 2003A(a)(2) requires that all DVOP specialists be veterans, it does not mandate that the specialists be DVEVs. Instead, the Act states that "preference" be given to DVEVs but that other disabled veterans and, if necessary, other veterans could be hired if the Secretary finds that preferred veterans are not available. The division complied with the preference provision in hiring the first DVOP specialists. Because of federal budget cutbacks, the order that all DVOP slots be filled as of October 1, 1981, and the seniority and layoff provisions of the state constitution, many of these positions will have to be filled by veterans with more seniority than those DVEV specialists already in the program. Many of the veterans with more seniority are not disabled.

Although section 2003A specifies how the specialists are to be hired, it does not address the issue of layoffs and bumping rights under state personnel systems. The law only states that the Secretary of Labor can authorize the hiring of other veterans where DVEVs are not available. Under Colorado's personnel system, which the division must follow, many DVEVs are not available for hire because the division will have to fill these specialists positions in accordance with the bumping provisions of the state constitution and personnel rules. Since the permission of the Secretary of Labor appears to be necessary to employ less preferred veterans a DVOP specialists, it is recommended that the division send a letter to the Secretary notifying him that in accordance with the Colorado Constitution and federal law the division is employing less preferred veterans under the DVOP program. Preferred veterans are not available because they do not have the seniority necessary to retain employment under the state personnel system as the result of federal budgetary cutbacks.

The fact that non-DVEVs are now part of the DVOP program will necessitate the changing of qualifications announced by the state for the positions. Since the DVOP act never required that specialists must be DVEVs, the positions probably never should have required such a special qualification. It could have been rationalized at the time, however, since enough money and persons were available to employ only the preferred veterans. As of this fiscal year, however, the division has been unable to hire employees from outside its own staff and instead has been faced with massive cutbacks. Since the requisite number of DVEVs with the necessary seniority are most likely not now employed within the division to fill the DVOP specialists positions, the division should modify the qualifications to specify that a specialist must only be a veteran. This is all that is required under federal law.

In determining which veterans have priority in bumping into the DVOP specialist positions, the division must rely on Colo. Const., art. XII, sec. 15(3), and personnel rule 9-4-1(G).

Both these provisions give preference to those employees with the most seniority including military service. Neither section, however, provides added seniority to

those veterans who are disabled. Although the sections are clear on this point, it appears implicit that where two veterans have the same seniority a disabled veteran should be retained first because that person received more veteran's preference points when hired. See Colo. Const., art. XII, sec. 15(1)(c).

In summary, it is the informal opinion of this assistant attorney general that the division can comply with the order of the Secretary of Labor to fund the DVOP position out of FUTA funds. The division cannot fund the positions out of Wagner-Peyser monies, however, because such expenditure is prohibited by Congress. In hiring DVOP specialists, the only special qualifications should be that applicants be veterans since the division has not been provided with enough money to recruit and retain only DVEVs in these positions. In determining which veterans have the most seniority to assume the DVOP positions, the division can only prefer a disabled veteran over other veterans if they have equal seniority. Neither the state constitution nor state law allows the division to retain disabled veterans, especially those from the Vietnam era, over other veterans with more seniority. If you have questions concerning this memorandum, please contact this office.

Mr. EDGAR. Does anyone else want to comment on that letter?

Mr. GUERIN. I alluded to that in my notes. She is 100 percent right, because they are bringing in these senior people. They might be disabled or they might not, but they are doing the work as a DVOP. But under the guidelines now, they are going against the DOL mandate that says that no more job development, no more employment contacts. They are going to be sitting there taking another body coming in looking for work. We did not do that. We worked with veterans and veterans only, and if we had a quiet afternoon I would go out and drum up some business contacting employers.

I have a file of contacts. I can get a plumber, an electronics technician, any occupational title, I know somebody to call to see if they need anyone. I will go out and see the employer. I have brought the veterans out. I have had people that were not too educated, I had to help them fill out their applications. You are not going to see any bureaucratic employment interviewer doing that. They could not care less.

Mr. EDGAR. I want to thank you for taking the time to come and testify. I hope as a result of your testimony we will see some consistency brought back to this program, and I appreciate your sacrifice.

Mr. PIEKIELNIAK. Thank you, Mr. Chairman.

Mr. EDGAR. Our final group of witnesses will be the representatives of the veterans organization. I would like them to come in a group to the witness table.

I want to welcome all of you here this morning. Thank you for your patience. Gentlemen, we have had a long morning listening to the Department of Labor and getting a response from the employment service personnel as well as the former DVOP personnel. The problem has been pretty well stated and aired, and I know that all of you have particular points that you would like to raise.

Let me assure you that all of your statements will be made part of the official record, that in order to save time as well as not to complicate the hearing, if you could summarize your statements it would be helpful, and go to those points that you would like to make either in reference to questions that were raised this morning in previous testimony, or in comments and highlights that you would like to list from your testimony.

Since I quoted from Mr. Drach's testimony already, I would like to begin with him, and we will move down the table to the Blinded Veterans Association.

STATEMENTS OF RONALD W. DRACH, NATIONAL EMPLOYMENT DIRECTOR, DISABLED AMERICAN VETERANS; JOHN FALES, JR., EMPLOYMENT DIRECTOR, BLINDED VETERANS ASSOCIATION; GABE BRINSKY, NATIONAL EXECUTIVE DIRECTOR, AMVETS; JOHN TERZANO, LEGISLATIVE DIRECTOR, VIETNAM VETERANS OF AMERICA; AND PAUL S. EGAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Mr. DRACH. Thank you, Mr. Chairman. Ronald Drach, national employment director, Disabled American Veterans.

On behalf of the DAV, Mr. Chairman, I would like to thank you for conducting these hearings, and as indicated, my entire statement will be submitted for the record.

It is kind of sad that despite at least a decade of various programs to include laws and administrative initiatives, that today we have about 200,000 more unemployed Vietnam-era veterans than we did in December of 1974, the month in which very significant legislation was enacted into law, Public Law 93-508. It deals with affirmative action. Officially we have an unemployment rate in December of 1981 of 616,000 Vietnam-era veterans, and that is up from a little over 400,000 back in December of 1974.

Another interesting figure that I just uncovered recently is that according to a study done by the VA, in 1979, 900,000 Vietnam-era veterans did not have a full-time job. The issue has come up in the past of underemployment. Certainly if you do not have a full-time job, I think it could be reasonably concluded that you are underemployed or unemployed. So we are not talking about 600,000, we are talking closer to a million. That is an awful, awful large number of Vietnam-era veterans not working.

I think the witnesses that preceded us told it like it is, and really hit the crux of the problem, the delivery system. That is probably where the biggest problems lie, in the delivery system. We know that there is a network of employment security offices. One of their functions is to assist employers in affirmative action. Well, in a course of about 7 or 8 years, these employers listed almost 7 million jobs with the employment security agencies. The law requires the employment security system to give priority referral of qualified disabled Vietnam-era veterans to those jobs. Almost 7 million jobs, yet less than 6 percent of those jobs went to Vietnam-era and disabled veterans. Six percent. Yet I am told that the employment security system filled 77 percent of those jobs, and if only 6 percent were filled by veterans, then obviously 71 percent were filled by nonveterans. Something is drastically wrong there as far as we are concerned.

I would like to offer a quote from my statement that sums up the plight of all too many Vietnam-era veterans. This comes from a letter from a Vietnam veteran who contacted us back in November seeking employment assistance:

> I have been everywhere from a gas station to a hospital looking for work. I just do not know where else to turn. Sometimes I feel it would have been better to have gotten it all over with in Nam. Then maybe would we not have been such a burden.

Obviously this veteran feels that the Federal Government, who sent him to Vietnam, now looks upon him as a burden to the economy. Certainly this Government should be able to do much, much more than they have—what they have not done in the past decade to address these problems of the Vietnam veterans.

In the current administration we have an Assistant Secretary for Veterans Employment for the first time. His confirmation hearings were not scheduled until November 17, 1981, more than a year after the election of the current administration, and almost 10 months after the new administration took office. That is deplorable. That was the last schedule C appointment to be filled in the Department of Labor, 10 months after the administration took office. Where is their commitment to veterans? That person is supposed to be the principal adviser to the Secretary of Labor. I think we can conclude that the Secretary has not had any advice in the 10 months that that position was vacant.

DAV has mentioned in letters to the Department of Labor that we believe a reorganization needs to take place. Part of that should include the transfer of the Office of Veteran Reemployment Rights to the Veterans' Employment Service. We might want to reassess that position, mainly because of all the employment programs for veterans that I have seen in 10 years in Washington, OVRR is probably the only one that works. If we take it out of LMSA, it may not work anymore. Maybe we ought to leave it where it is. It has a pretty strong mandate in the statutes. It has a pretty good judicial history.

So maybe we better step back and reasses any transfer of OVRR. If that transfer comes, I think we ought to be cautious as to how it comes. There has been a rumor going around that the Secretary of Labor's office wants to transfer the function without staff or budget. If that happens, we can forget about enforcement efforts on the part of OVRR regardless of who is dedicated enough to do it. We have 22 or 23 vacancies within the Veterans' Employment Service. The positions are there, but they have not been filled.

Mr. Plowden has consistently stated that the Veterans' Employment Service is a monitoring function. How are they going to monitor if they do not have any staff to do the monitoring? There are State director vacancies, three or four.

Perhaps, the best news we have had is the administration's request for the supplemental appropriation. I am not going to belabor the DVOP issue. I think the three individuals before us pointed out the problems. From our experience that situation is not unique to the Commonwealth of Virginia. I have heard it from Indiana, Pennsylvania, South Dakota. There is a case that went to court Friday in South Dakota as to who will get the position of DVOP, where that position will be, and who that DVOP person will serve.

You talked this morning about perhaps transferring the VES over to the VA. Under the leadership of our past national commander, Oliver Meadows DAV adopted a resolution to that effect. We have had that resolution every year since, and just about everybody says that is crazy, VA cannot do it. Speaking for DAV, we have watched the Department of Labor not do it for 10 years at least. Maybe it is time to let the VA try. We could have a Deputy

Administrator for Veterans Employment, and perhaps we would get better service out of the VA than we do currently.

Mr. Hall responded to that issue about where we think things are going to get better now that we have an Assistant Secretary. We said that 5 years ago about the Deputy Assistant Secretary, and here we are today arguing the same things, unemployment increased by 25 percent, over 600,000 unemployed. Where have we come in the last 5 years? Backwards. It is time to take a serious look about transferring those functions over to the VA.

A frustrating thing is, if you look at the Harris survey of 1980, 74 percent of the employers believe that Vietnam-era veterans should have some preference. Obviously somebody is not giving that preference to them. Maybe VA employees would. Obviously the employment security system people are not.

Thank you, Mr. Chairman.

Mr. EDGAR. Thank you for your statement.

[The prepared statement of Ronald W. Drach appears on p. 178.]

Mr. EDGAR. Mr. Fales.

STATEMENT OF JOHN FALES, JR.

Mr. FALES. Every time I grab this microphone I feel like singing.

Mr. EDGAR. Do you play the piano?

Mr. FALES. I tune them.

Mr. Chairman, I think the last time we were together it was at a no greater love function where Vietnam veterans were being honored. I feel that there is no better way to honor a Vietnam veteran than to give him a good job, a viable job and a good career. As we have heard before, there is a great, great problem within our country. The unemployment rate for Vietnam-era veterans is 8 percent, and that is according to the Department of Labor, BLS—Bureau of Labor Statistics. These are not seasonally adjusted figures, so it is closer to 9 percent.

We see what is happening with the DVOP program. We see what is happening with the DVER's out in the States. And I only hope that that supplemental will alleviate this big problem, and let us get on with the business of insuring our Nation's veterans of viable careers.

I think it is about time that the Office of Veterans' Reemployment Rights, the affirmative action programs, the Employment Standards Administration be put under the direction of W. C. Plowden. It must be staffed properly. It must be funded properly.

The Office of Veterans' Reemployment Rights has a tracking system. That means that they have—they may have maybe 5 percent of the compliance officer's time. We know it is a good program. It is a viable program, and it could be a lot better if we had the State directors for veterans, the assistant State director for veterans, working, carrying out those same duties.

There is not any reason why the State directors for veterans' employment and the assistant State directors cannot visit Federal contractors to see if they are abiding by the law, the law that the good Congress said should be implemented. I think economically that it would be feasible.

I do not want to be redundant. Ron has just about said it all, but I do want to mention that there is employment discrimination against our Nation's blinded veterans and other severely disabled veterans. I attached to my testimony a resolution that was passed at our convention asking for dismissal of the State director of Arkansas for blatant discrimination against not only a blinded veteran, not only a Vietnam veteran, but a blinded Vietnam veteran with one leg. And this individual was hired as an assistant State director, and the State director who was supposed to be training and supervising him, he did not even talk to him. And hopefully Mr. Plowden will investigate this and take proper action.

Thank you, sir.

Mr. EDGAR. The very much for your statement.

[The prepared statement of John Fales, Jr. appears on p. 198.]

Mr. EDGAR. Mr. Gabe Brinsky, national executive director of AMVETS.

STATEMENT OF GABE BRINSKY

Mr. BRINSKY. With the chairman's permission I would like to introduce Pete Courrier, the deputy national service and legislative director for AMVETS. Pete was a DVOP officer in the State of Maine. He will be apearing before this committee on occasion.

Mr. EDGAR. Welcome to the committee. Your full statement will be made a part of the record, Gabe.

Mr. BRINSKY. Primarily we strongly feel in AMVETS that many of the difficulties which are being encountered by the Vietnam veterans in finding their way back into the mainstream of society could be solved by providing them with employment and with the dignity which such independence provides. What is particularly disturbing is the fact that between 300,000 to 500,000 Vietnam veterans on the average have been unemployed during the past decade. This figure is staggering when one stops to consider that a half million out of 9 million are unemployed veterans.

We believe that the Congress has sincerely attempted to meet the problems of unemployment of our veterans. The stumbling block is that while means were provided and are available, they have not always been utilized. Positions in the Veterans' Employment Service have remained unfilled and continue to remain vacant. We are extremely hopeful, but have seen no evidence of that to the present, that with the enactment of Public Law 96-466 which created the position of Assistant Secretary of Veterans Employment, that a change in the environment will occur.

Our great concern for the unemployed Vietnam veteran prompted the national commander of AMVETS just this past month to address a letter to the President of the United States in which he suggested a general program for consideration to assist in the training and placement of the unemployed Vietnam veteran in the private work force sector. Among the suggestions he made was the issuance of a Presidential proclamation which would announce a major employment and training program specifically for Vietnam-era veterans. Under his proposal a directive would be issued from the White House calling for the participation of all private sector employers and the designation of the Veterans' Administration to

go with the Department of Labor as lead agencies. Consideration was also urged for the creation of a system of tax incentives to employers. The utilization of the existing disabled veterans Outreach program will serve as an implementing tool in carrying out such a program.

To demonstrate our concern AMVETS has added to its professional staff an individual who will be charged with the unemployment problems of our veterans. He is Peter Courrier, the gentleman I just introduced to the committee. In addition, we have compiled an extensive pamphlet to serve as instructional material for the national service officers and others engaged in combating the unemployment problem of our Vietnam veterans.

We are pleased with the performance of Hon. Donald Divine, the Director of the U.S. Office of Personnel Management. Compared to past experiences we find his attitude and that of his staff extremely refreshing. He has demonstrated a sensitivity to the problems which confront all veterans and for which AMVETS is extremely grateful. His testimony before this committee last November outlined an approach to veterans' problems which was extremely encouraging. We have acknowledged this fact through press releases and in the official communications organs of AMVETS.

I would like to make reference to a matter which though not within the purview of this committee I find to be extremely important, and that is section 2405 of Public Law 97-35, which eliminated eligibility for unemployment compensation of enlisted personnel who did not reenlist. That was a matter—well, while not under the committee's purview at the present time, the committee did have jurisdiction previously when it was under section 2001. In any event, AMVETS offers reservations about any legislation denying benefits to those who served faithfully and would allow benefit to those whose service was less than honorable. Under Public Law 97-35, a veteran who served faithfully and was entitled to reenlist but did not do so for any variety of reasons is denied unemployment compensation. Ironically, one who served less than honorably and is not qualified to reenlist is entitled to unemployment compensation.

This legislation, which was enacted in August 1981, was made effective as of July 1981. Legislation has been introduced in the first session of the 97th Congress which would correct this, what appears to be anomaly, and we strongly urge the support of this committee in any action that it may take to see that this legislation is enacted.

That concludes my statement, Mr. Chairman.

[The prepared statement of Mr. Brinsky appears on p. 203.]

Mr. EDGAR. John Terzano, legislative director of the Vietnam Veterans of America.

STATEMENT OF JOHN TERZANO

Mr. TERZANO. I would like to submit my statement for the record.

Mr. EDGAR. Without objection, all the statements are part of the record.

Mr. TERZANO. Mr. Chairman, as you know, the problem of Vietnam veterans' unemployment is a historical problem. Three times before in our history, in 1972, in 1975, and in 1977, unemployment among Vietnam veterans rose over 500,000, and now we find in December of 1981 that it is over 600,000.

I would agree with Mr. Drach that if you just look at the statistics, which are startling and devastating in themselves, that those do not tell the underlying problem, people that are not reported in statistics. I would agree that we are probably closer to 1 million people unemployed. If that is not reason to do something, I do not know what is.

I feel we have a tremendous dichotomy between the reality and the rhetoric that we get from the Department of Labor. The rhetoric is that DVOP's will be refunded, reestablished. Well, we just had sitting here before us three DVOP's who are now unemployed.

I find it amazing to hear the rhetoric from Mr. Hall talking about the VOCS program and the TTA program. Last year he talked about the wonderful work that they had done, but those programs are not around any more. That is the reality. Unfortunately at least to Vietnam veterans the reality is that there is not a commitment. I am hoping that with the appointment of the Assistant Secretary for Veterans' Employment that maybe there will be a new commitment.

As Mr. Drach pointed out, and you read the statement from Senator Humphrey, unemployment exacerbates a lot of problems, suicide, divorce, crime, and when we have a delivery system out across the country in the form of veterans' centers that have a tremendous capability of dealing with Vietnam veterans, and they do not have the support nor the networking to go into a TTA program, to go into a VOCS program, all we are talking about is rhetoric and not a firm commitment. I am hoping that this committee—and I am looking to you, Mr. Chairman, and I know the Vietnam veterans of America would be willing to work with you, as I am sure the other veterans organizations, in coming up with a solution, in coming up with answers, in coming up with a new program specifically designed and targeted for the unemployed veteran.

I thank you.

Mr. EDGAR. Thank you for your statement.

[The prepared statement of John F. Terzano appears on p. 210.]

Mr. EDGAR. Mr. Egan. Would you state your full name and service organization.

STATEMENT OF PAUL S. EGAN

Mr. EGAN. Paul Egan, deputy director of the American Legion's Legislative Commission.

Last November 10, we presented testimony highly critical of the Department of Labor's handling of veterans' programs. Many of those same criticisms are contained in the text of the prepared statement before you today.

In summary, competition among specifically targeted population groups for increasingly limited resources has burdened the Department of Labor's Employment Service (ES) with so many responsi-

bilities that no one group has been treated effectively. This predicament has persistently plagued veterans' programs as other groups have more successfully sought favored status.

With the passage of the most recent continuing resolution, at a time in which unemployment has risen to nearly 9 percent, funding for the Employment Service has been cut, leaving staff levels in many fewer employment offices severely depleted. Under the circumstances, local veterans' employment representatives (LVER's)—ordinarily low in seniority—are among the first to be eliminated. Since LVER's are congressionally authorized, replacements are designated from what staff remains—notwithstanding knowledge of or experience with veterans' problems.

In the case of disabled veterans' Outreach program specialists, similar circumstances apply. As for the Veterans' Employment Service, it has never been effective in assuring that States comply with congressional intent.

In spite of poor attention to veterans' programs by the DOL and individual States, we are hopeful. Even as CETA seems under the process of systematic dismantlement, William Plowden has been confirmed by the U.S. Senate as the first Assistant Secretary of Labor for Veterans' Employment (ASVE) since that position was created by Public Law 96-466.

As Congress turns its attention to national employment training policies to replace CETA—as it now seems prepared to do—we look forward to legislation establishing a separate and distinct program of employment and training for veterans consolidated under the direct fiscal and operational control of the Assistant Secretary of Labor for Veterans' Employment.

We are aware of one such measure being introduced today in the Senate. Though flawed in several respects, the program concept that measure employs is both attractive and supportable. The concept we refer to would place employment/training programs at the local community level using community-based organizations (CBO's) familiar with and knowledgeable of local veterans employment problems. Under that system funds (separately authorized for say 3 years and separately appropriated) would be contracted directly to community-based organizations around the Nation.

Recognizing that veterans, particularly Vietnam-era veterans, respond more favorably to local service delivery systems than to traditional agency service delivery systems, the CBO concept can be expected to function successfully and efficiently. While the question of CBO monetary and service delivery accountability may be raised, it should be emphasized that the Assistant Secretary of Labor for Veterans' Employment will control the dispensing and monitoring of grants and contracts. The fact that this program design would for the first time be narrowly focused on veterans and controlled by the infrastructure of one office in DOL, CBO's can be made to be accountable.

Apart from CBO accountability, comprehensiveness of consolidated veteran employment/training programs and prospective multiple year authorizing legislation, such a program could more effectively utilize services available at ES offices. Importantly, we anticipate a cooperative arrangement among CBO's, ES offices, and disabled veterans' Outreach program (DVOP) specialists, who for

the first time would be free to do the Outreach work intended by Congress.

[The prepared statement of Paul S. Egan appears on p. 214.]

Mr. EDGAR. Thank you for your statement, Paul. I really appreciate your help over the last 2 weeks in trying to sort through this problem, and the others of you, we are really looking forward to working very closely and trying to deal with the kind of issues that you raise.

Let me ask all of you a question: Are the Vietnam veterans better off today than they were a year ago in health care and in employment services?

Mr. TERZANO. I would say "No." The employment statistics in one area shows that. In terms of health care, that remains to be seen. With respect to agent orange, as you know, you passed legislation last year providing for the first time health care for Vietnam veterans who have problems resulting from agent orange. I think it is still a little bit too early to tell whether they are getting that treatment, but we are going to be looking into the issue here. But overall, I would say that we are not better off.

Mr. DRACH. I would have to echo John's remarks. In essence, no, Vietnam-era veterans are not any better off today than this time last year. I will take it a step further. We are not better off than we were 10 years ago, and we are into our fourth administration since 1972. That is sad.

Mr. EDGAR. But the President of the United States announced last week before a joint session of the House and Senate that the state of the Union is good, that we are going to tinker with some swap programs and tinker with some delivery systems and pass back some programs to State and local government, but generally it sounded to me as though he was saying with a few exceptions here and there, with interest rates and maybe high deficits, inflation is down, things are good. At least that is what I heard the President of the United States saying. Is he wrong?

Mr. TERZANO. Mr. Chairman, I am originally from the city of Detroit, which today has the highest unemployment rate in the country. A lot of my friends back in that city, their unemployment benefits have expired, they have lost their homes, and they are having very, very serious problems. All you have to do is look at the unemployment rate in this country, fast approaching 9 percent, and if you look at the underlying, it is estimated to go as high as 11.5 to 12 percent. No, the state of the Union is not good.

Mr. FALES. Also, I hate to disagree with the President, but I think—one of the things that I see positive for the Vietnam veteran is the Vietnam veteran leadership program in action. I think it is a new initiative. The individuals who are involved in it are combat Vietnam veterans and there is great enthusiasm, and hopefully the U.S. Department of Labor could fund some of those programs, and let us get on with getting the Vietnam veteran back into the mainstream of our society with viable careers.

Mr. TERZANO. Mr. Chairman, if I might follow up on that briefly for a minute. I have a lot of faith and I have talked to the people over at the leadership program, and I think they are doing a tremendously admirable job, but as you heard, the reality of the situation is they do not have any money, and the Department of Labor

is not looking to give them money. How are they going to get off the ground if they cannot get financial support from other agencies?

Mr. DRACH. Mr. Chairman, from the employment aspect I would have to say we are in a state of disunion and not a state of union. I am not an economist, but by virtue of what the President did yesterday, asking for a $2.3 billion supplemental because they misjudged the unemployment rate or they miscalculated what the unemployment rate was going to be—$2.3 billion, that is a big mistake—that is a big problem. We have a national unemployment rate that is the highest since the Depression. Vietnam veterans unemployment is the highest in the history of keeping records on Vietnam-era veterans. The President himself has been quoted as saying for every percentage point of unemployment, it costs the economy $19 billion in potential but lost revenue, and another $6 billion in transfer payments, if you will. For every percentage point of unemployment we lose $25 billion, by the President's own estimates. Hopefully his estimates are a little better this time than they have been in some of the other areas. That more than pays for a system that as bad as it is is cost-effective and can be improved, and we should be looking at improving.

Somebody mentioned that we would be the only free world nation without a labor exchange. This country does not have a labor exchange, and has not had one for 25 years. We do not have a labor exchange in this country.

Mr. EDGAR. Unless the President goes to Camp David and has a change of heart as he did on the issue of revenue enhancement measures, it appears to me that the President will announce at the end of this week or the first part of next week cuts for 1983 affecting staffing for VA hospitals, health care eligibility, education benefits, employment programs, and the like. We are going to need all of your help in monitoring what those cuts are and what the impact of those cuts are, and which of those cuts we have the legislative as well as the political power to restore, or which programs we need to in fact alter so that they are much more effective.

We are caught in a very difficult bind in that we have some large criticisms that I have heard today of the programs in place, and yet we may spend most of the next year trying to at least save those programs from being eliminated entirely rather than talking about improvements in those programs, expansion of those programs, retargeting of those programs, new creativity, new imagination into how those programs can work better for veterans, and particularly the unemployed veterans. So we are going to have to ask your help and guidance and support in trying to sort that issue out as we face those budget cuts and program cutbacks and eliminations which we can anticipate, given the bind that all of us are in with the high deficits.

One of the comments was made about the $2.3 billion being a lot of money. Sometimes it is in the political best interest of an administration to make sure that deficit projections are under $100 billion, and I was amused that on December 7 the Wall Street Journal, interviewing David Stockman and the President, indicated that the budget deficit for 1982 would be $109.1 billion. The President announced last week that he was sure that the budget deficit

would be under $100 billion, and on Saturday the headlines in my local newspaper, boldface, were $96 billion of deficit announced by the President.

My guess is that the deficit figures that we are talking about are all guesstimates, that all of us can take some comfort in knowing that the deficit is going to be astronomical, whether it is $96 billion, $109.1 billion, or $120 billion, and those nonentitlement programs, those programs which may in fact be discretionary may be the ones that face the best certainty for axing or elimination.

I appreciate your work in this whole area of employment services. We do have a lot of work to do. I would urge you also to work with the Appropriations Committees, because while we have some empathy and sympathy for the direction of these programs, unless the Appropriations Committee makes the dollars available to provide for these programs, we simply cannot proceed.

Thank you for your time, and this hearing now stands adjourned.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT OF DONALD J. DEVINE, DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to appear before you to discuss OPM's recent initiatives to improve employment opportunities for veterans in the Federal Government.

As you know, during the seven months I have served as Director of OPM, we have taken major steps forward in protecting and extending the rights of veterans in the Federal service. Veterans have earned a special right to job opportunities within the Federal Government, and I am determined to see that their rights are protected.

Even before I was sworn into office, my staff and I met regularly with officials of major veterans organizations. I had the opportunity to meet with other veterans' representatives when I spoke recently to the national conventions of the Disabled American Veterans and the American Legion. I have listened carefully and tried to respond to their concerns. A recent VFW publication stated that my public position on veterans' affairs "signals better job opportunities for veterans within the Federal Government."

I think the VFW is correct. The Reagan Administration, and OPM in particular, are committed to strengthening veterans' preference in the Federal Government. We intend to live up to the spirit and letter of the Veterans' Preference Act of 1944, as amended. In our view, both veterans and the Government benefit from veterans' preference.

On one of my first trips to Capitol Hill after becoming OPM Director, I testified before this Subcommittee in favor of extension of the Veterans Readjustment Appointment (VRA) Program. On November 3, 1981, the President signed this legislation into law. OPM stands ready to implement VRA, and we are taking steps to encourage agencies to exercise their authority to hire disadvantaged and disabled Vietnam era veterans under this program. These steps include revising our guidance and regulations to agencies and providing veterans with information on VRA extension through our network of Federal Job Information Centers.

As you know, VRA permits agencies to hire eligible veterans without going through the competitive process. Those selected then have the chance to develop additional skills through a program which combines education and training with the opportunity for regular career appointment. By all indications, this program has been a success, and many qualified and deserving veterans, who otherwise may have been denied an appointment, have been given the chance to join the civil service. I know from my own experience at OPM that those selected under VRA have been of a high caliber and are making important contributions in Government service everyday.

Although there have been personnel cutbacks in the Federal Government, we have not reduced the rate of appointments under the VRA authority. Our most recent data on veteran hiring show that 8,677 VRA hires were made in the first half of fiscal year 1981. Approximately 40 percent of these were minorities and eight percent were women. Since the program began a decade ago, more than 170,000 veterans have entered Government service through a veterans readjustment appointment.

In addition to VRA, we are building on other veterans' hiring programs. For example, the special hiring authority for veterans who are 30 percent or more disabled remains a high priority at OPM. During the first half of fiscal year 1981, 1,108 severely disabled veterans were appointed, 163 of whom were selected under this special program. This compares favorably to FY 1980, when 1,733 veterans with a disability of 30 percent or more were hired during the entire year.

In order to ensure that veterans are given the attention they deserve in Federal affirmative action plans, OPM has assumed responsibility for oversight of equal employment programs for hiring, placement, and advancement of disabled veterans in the civil service. Since the Equal Employment Opportunity Commission (EEOC) has had this responsibility for the past three years, OPM and EEOC will share duties in this area in FY 1982. We believe this will help us accomplish an orderly and effective transfer of functions, with OPM taking sole responsibility in FY 1983.

In my view, there is no group in the country to whom we owe more than those who were willing to risk their lives for their country. I intend to see that disabled veterans receive the priority treatment guaranteed them by law and enthusiastically endorsed by the Reagan Administration policy.

As the Subcommittee is aware, OPM has general oversight responsibility for Government-wide compliance with civil service laws, rules, and regulations. I have devoted additional resources to this function in FY 1982, and have specifically directed our Agency Compliance and Evaluation unit to monitor agency performance under the VRA Program and the noncompetitive hiring authority for veterans who are 30 percent or more disabled.

I know that the Subcommittee is especially concerned about veterans' preference in the U.S. Postal Service. The Postal Service is obligated to meet the requirements of the Veterans' Preference Act of 1944, as amended, and section 3312(b) of title 5, United States Code.

Of special interest to the Subcommittee is how the application of OPM's general authority to review cases of 30 percent or more disabled veterans who are passed over in Federal employment for medical reasons applies to the Postal Service. I think it is important to explain how this procedure works. When a 30 percent or more disabled veteran is rejected for medical reasons for a job in the Postal Service, the veteran has a right of appeal to OPM. But since this procedure has been in effect only a short time, we have had no experience in handling these Postal Service cases.

It is our understanding the Postal Service is in the process of identifying records of those veterans who are 30 percent or more disabled and who have been passed over for medical reasons. These cases will be forwarded to OPM. We will handle these cases expeditiously once we receive them. In the meantime, we are continuing to work closely with Postal officials in this important area. To ensure compliance, OPM will soon begin to conduct audits of the Postal Service, in those areas where we have clear legal authority.

In your letter of invitation, the Subcommittee expressed special interest in the impact which reduction in force (RIF) has had on veterans who are now employed by the Federal Government. I want to assure the Subcommittee that OPM has, and will continue its strong enforcement of veterans' preference in RIF situations.

Let me explain briefly how we determine employees' retention standing in the Federal service. Each employee is ranked according to four factors:

(1) tenure group;

(2) veterans' preference;

(3) length of service, and

(4) current performance rating.

Each tenure group is then divided into three subgroups. These subgroups include (in descending order of the retention standing afforded them):

(a) preference eligible employees who have a compensable service-connected disability of 30 percent or more:

(b) preference eligibles who are not 30 percent or more disabled, and

(c) nonpreference eligible employees.

In addition to these advantages in ranking, employees who are 30 percent or more disabled veterans have the extra protection of the right of appeal to OPM under section 3504(b) of title 5, United States Code, in situations where the employing agency determines that the veteran cannot be retained because of physical requirements of a position.

As you can see, veterans receive protection beyond that given to similarly situated employees. This policy is fully consistent with the law, and in my view, represents a fair and effective system.

I would also point out that special efforts are being made to assist displaced employees in finding alternative employment, both in the Government and private sector. President Reagan has expressed his personal support of these programs, calling placement efforts a "Government-wide imperative." Thus far, we have been successful in assisting many displaced employees. I am optimistic about the situation, and believe we will be able to place most Federal workers affected by reductions in force.

Since OPM has a special interest in the impact RIFs may have on veterans, we have initiated a file extract from our Central Personnel Data File. While no definitive figures are currently available, I will certainly share these data with the Subcommittee as soon as we receive them.

OPM has taken several other actions geared toward beefing up the Government's veterans' preference efforts. Let me briefly mention just a few of these initiatives.

Last spring, George Skypeck, a highly decorated Vietnam war veteran, brought to my attention the fact that veterans' preference was not being applied in all phases of the selection process for the Presidential Management Intern Program. Through this program, top graduates in public administration are placed in professional positions in Government. Most of them are later offered permanent positions. Universities screen the applicants, who are then referred to OPM for further review.

Last July, I moved to extend veterans' preference to all stages of the selection process. Veterans now receive the additional consideration they deserve. Qualified graduates who served in our military should be encouraged to develop their skills through internships, and then contribute their skills as permanent, full-time civil servants. This change will not affect a large number of people. But, it will mean a lot to those veterans who do apply to the program.

In addition to these steps, I have directed each regional office of OPM to assign an individual responsibility for veterans' employment matters. This person regularly deals with other agencies on veterans' affairs, and keeps in touch with veterans organizations, as well as individual veterans who are in need of special assistance. We have publicized this Administration's renewed commitment to veterans' preference. We want veterans and the general public to know that the Reagan Administration rejects any efforts to dilute or destroy veterans' preference in Federal hiring.

Tomorrow we will honor America war heroes on Veterans Day, 1981. As a nation, we should be proud to salute our veterans for their service and personal sacrifice for our country. At OPM, we intend to do our part to pay back in some small way the enormous debt the whole country owes to its men and women who have served in military uniform.

Mr. Chairman, veterans' preference is an integral part of the Federal Government's merit employment system.

I appreciate the chance to testify here this morning. I would be happy to answer any questions you may have.

COMMITTEE QUESTIONS SUBMITTED TO THE OFFICE OF PERSONNEL MANAGEMENT

United States
Office of
Personnel Management

Washington, D.C. 20415

FEB 24 1982

In Reply Refer To:

Your Reference:

Honorable Bob Edgar
Chairman, Subcommittee on Education,
Training and Employment
Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Edgar:

This responds to questions you asked during my November 10, 1981, testimony and additional questions raised in your recent letter regarding veteran preference provisions. I appreciate the opportunity to clarify and expand on these matters.

The questions you asked during the hearing, and my responses, follow:

1. How many veterans have been affected by reductions in force (RIF) that have taken place this calendar year (1981)?

A. The latest data available cover the period from January through September 1981. (There could be a slight undercount in this data since agencies still may make late submissions to our data system.) I am providing data both on RIF separations from the Federal work force and on other actions taken because of RIF. These figures cover all agencies (including the Administrative Office of the U.S. Courts and the U.S. Postal Service) which report to the Central Personnel Data File and include permanent and temporary employees under full-time, part-time, and intermittent work schedules.

Of the 9,141 total RIF actions taken during this period, 45 percent (4,094) affected veterans and 54 percent (4,932) affected nonveterans. We could not determine the veteran status of the other 1 percent (115) of persons affected.

Of the 5,136 persons actually separated, 40.5 percent (2,066) were veterans and approximately 60 percent (3,029) were nonveterans. This compares to 43.7 percent veterans in total Federal employment. Therefore, veterans were slightly less affected by separation than their representation in the employee population.

Approximately 8 percent of those separated were Vietnam era veterans, 4 percent were disabled veterans, and less than 1 percent were Veterans Readjustment Authority appointees.

Additional information is provided in the enclosed charts.

2. How many more reductions in force are contemplated and in which departments and agencies?

A. As a result of the last continuing resolution passed by Congress, most nondefense agencies will be taking cuts of up to 16 percent in their budgets for FY 82. An agency may use a variety of actions to control personnel costs which comprise the largest share of these budgets. These include voluntary leave without pay, involuntary furloughs, reductions in force, or some combination of these. At this time, few agencies have announced their plans so we do not know with certainty the extent to which any of these actions will be taken. Our current estimates are for approximately 6,000-7,000 total RIF separations for the first five months of FY 82. These reductions will be primarily in the Departments of Health and Human Services (especially the Public Health Service), Education, and Labor.

3. How many VRA hires were made under the provisions of Executive Order 11521, during the period from October 1, 1981, through November 2, 1981?

A. This period covers the time from the lapse of P.L. 95-520 to Presidential approval of legislation (P.L. 97-72) extending the Veterans Readjustment Appointment (VRA) Program until September 30, 1984. This information will be available shortly. We will provide it to you as soon as it can be extracted and presented.

4. What is being done for veterans who applied for a VRA during the period from October 1, 1981 through November 2, 1981 and who did not qualify under Executive Order 11521? Are they being notified of the enactment of P.L. 97-72 so that they may apply again?

A. Office of Personnel Management (OPM) headquarters has advised agencies of the extension of the VRA program through an OPM news release, the Federal Personnel Manual, and agency contacts. OPM regional offices and our Washington office also have informed Federal installations of the extension. In addition, OPM's Federal Job Information Centers have made this information available to the public.

We have notified the major veterans' organizations of the VRA program extension. Two of these have publicized the extension through national publications and a third is planning to do so in the near future.

We have received inquiries about the extension from Federal agency personnel, your colleagues' offices, and from individual veterans. We have also seen newsclips from newspapers throughout the country regarding the extension.

We are currently revising our public information pamphlet on the program and a poster which can be used by employment offices. These will add to our currently successful publicity efforts.

5. Some persons served in the Public Health Service during the Vietnam era and have been denied veterans' preference by the OPM. What is OPM's legal basis for its decision?

A. The law (5 U.S.C. 2108) provides that veterans' preference can only be afforded to those persons who served on active duty in the armed forces of

the United States (Army, Navy, Air Force, Marine Corps, and Coast Guard). The Public Health Service is part of the uniformed services (5 U.S.C. 2101), not a part of the armed forces. Unless a member of the uniformed services was formally detailed to the armed forces during the Vietnam era, he/she is not eligible for veterans' preference (42 U.S.C. 213). Such details would be recorded on Defense Department documents issued to an individual. We are not aware of any such details. If any did occur and were documented, veterans' preference can be awarded.

6. How does OPM monitor Federal agency conformance with veterans' preference laws?

A. Veterans' preference laws are reflected in title 5 of the Code of Federal Regulations. Information regarding these laws is included in the requirements and guidance contained in the Federal Personnel Manual. These are in the hands of each Federal agency. We have found that agencies are well aware of their responsibilities regarding veterans' preference.

OPM monitors conformance to legal requirements through its recurring agency compliance reviews and reviews of agency use of delegated examining authority. I have placed high emphasis on such reviews during FY 82. If discrepancies are found, corrective action will be required.

The questions you asked in your letter, and my responses, follow:

1. The Veterans Preference Act of 1944, as amended, extends to preference eligibles protection during a RIF. Do you feel that the Veterans Preference Act extends those same rights of protection during times of: A) Transfer of functions (as in the case of the CAB wherein certain functions are to be abolished); B) furloughs for both less/more than 30 days; and C) seasonal employees? If you do not feel that the Veterans Preference Act extends to A, B and C, please state why the Act should not apply.

A. Transfer of Function. The law provides a basic right for employees who work in a transferring function to follow their function. It would govern any transfer of function at the Civil Aeronautics Board which might occur with abolishment of other functions. The right to follow a function is separate from the provision which covers release of employees during RIF's.

The transfer of function right is contained in the Veterans' Preference Act of 1944, as amended by the Civil Service Reform Act of 1978, and is codified in §3503, title 5, United States Code. §3503 states:

> (a) When a function is transferred from one agency to another, each competing employee in the function shall be transferred to the receiving agency for employment in a position for which he is qualifed before the receiving agency may make an appointment from another source to that position. (emphasis added)

The legislative history of the the 1944 act indicates that the intent of the transfer of function provision was to attach rights of veterans to the functions they performed. Thus, identifying employees with their function is crucial to determining and assuring their rights under the statute.

Running a RIF to determine transfer rights and giving transfer rights to employees not in the function over employees in the function would defeat the purpose of §3503.

B. Furloughs. The use of RIF procedures for furloughs of more than 30 days has been a long established policy. The history of the Veterans' Preference Act shows the law was intended to give legislative sanction to veterans' preference under existing rules and regulations of the executive branch. Even before passage of the Act, regulations of the Civil Service Commission treated furloughs over 30 days as RIF separations; the Act assured continuation of this policy. This treatment of furloughs over 30 days as RIF separations has been upheld by the courts.

Regarding furloughs for 30 days or less, these are specifically included as adverse actions under subchapter II of chapter 75, title 5. This means that affected employees are entitled to 30 days' advance notice and certain other procedural protections. Basically, this action is a management tool to deal with a temporary situation in which employees are expected to return to work after a very short layoff. The use of complicated RIF procedures, with bumping and retreat rights, would be impractical and disruptive for these short furloughs, and would curb their use as an effective management tool. As part of its review of agency RIF actions, OPM will be looking at the way in which agencies conduct furloughs and will take appropriate action if a need is indicated.

C. Seasonal employees. RIF procedures apply to seasonal employees except for layoffs at the end of a season and subsequent recalls which are consistent with preestablished conditions of employment. Extending RIF protections for these seasonal actions would undermine the basis for career seasonal employment.

Seasonal employment enables agencies to develop an experienced cadre of career employees to perform work of a recurring nature associated with seasonal activity. Employees are hired initially from certificates of eligibles where veterans' preference and the rule of three apply. Agencies themselves set the minimum and maximum periods of employment in accordance with their management determined needs and workload requirements. In all cases, however, an agreement is executed between the employee and the agency stating the terms and conditions associated with a particular position. The employee is then subject to being placed in a nonduty, nonpay status and recalled in accordance with preestablished conditions of employment.

This kind of predictable seasonal layoff and recall that is known and agreed to in advance by the employee is altogether different from the unforeseen furloughs the Veterans' Preference Act was intended to cover. On this basis, seasonal layoffs and recalls, incident to a condition of employment, have long been excluded from reduction-in-force procedures. This exclusion has been upheld in the courts.

I want to stress, however, that seasonal layoffs are not intended to be a substitute for reduction-in-force procedures in circumstances that do not reflect preestablished conditions of employment. For example, if an agency decided not to recall some of its seasonal employees for a season because of workload or budget reductions, it must follow RIF procedures. Likewise, if an agency finds it necessary to reduce its staff of seasonal employees, it must follow RIF procedures.

2. Would you please provide the statutory basis and copy of implementing OPM regulations that prohibit the hiring of a veteran preference eligible who has not gained U.S. citizenship. Should lack of citizenship be the basis of denial of Federal employment to an otherwise qualified veteran preference eligible?

Both Congress and the executive branch have had a longstanding policy of limiting the employment of aliens in the Federal service. Since 1939 Congress has prohibited agencies from using appropriated funds to pay aliens, with certain exceptions, e.g., nationals of countries allied with the United States. No distinction is made between alien veterans and other aliens. (The latest prohibition is in section 602 of P.L. 96-74, the Treasury, Postal Service and General Government Appropriations Act, which remains in effect by continuing resolution.)

Executive Order 11935, issued September 3, 1976, reinforced longstanding policy on citizenship, and has been upheld in the courts. It provides that only citizens or nationals of the United States may be admitted to a competitive examination or may be given an appointment in the competitive service (except in emergencies or in the absence of qualified citizens). As with the legislative prohibition, this limitation applies to both veterans and nonveterans. Even without this Executive order, however, veteran aliens could be denied employment under the congressional pay prohibition.

Since Congress has specific constitutional authority to control admission and conduct of aliens in the United States, we believe any changes with regard to Federal employment should flow from it. We would be very interested in assisting in any congressional review of the matter.

91-318 O—82——7

Copies of E.O. 11935 and OPM implementing regulations are enclosed.

3. Would there be any objection by OPM in amending its regulations in regard to transfer of function, furlough and seasonal employees, to extend to preference eligibles the same protection as in a RIF situation?

We have no authority to permit employees in terminating functions to compete for continuing jobs held by employees in transferring functions when the transfer and termination will occur at the same time. A regulatory change to treat a transfer of function as a RIF would nullify the statutory right of employees in transferring functions as set out in 5 U.S.C. 3503.

As for furloughs of more than 30 days, they are now subject to the same procedures as are RIF separations. Furloughs for 30 days or less are covered by statutory adverse action procedures and are, therefore, exempt from RIF procedures.

Changing our regulations to require RIF procedures when seasonal employees are placed in a nonduty, nonpay status at the end of the work season would create an administratively difficult and costly burden that would frustrate an agency's efforts to effectively manage its workload and work force. If RIF procedures were required, this in all likelihood would sharply curtail the use of seasonal career employment. In its place, agencies probably would use temporary appointments with no assurance of being able to rehire experienced personnel.

4. Should the rights and benefits of the Veterans Preference Act, as amended, be extended to those preference eligibles in the excepted service and the Senior Executive Service?

Under current law, preference eligibles in the excepted service are entitled, under agency established excepted service systems, to most of the same rights and benefits as those in the competitive service. These include preference in appointment and reduction in force and adverse action protections.

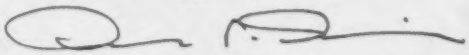
§1302(c) of title 5 authorizes OPM to prescribe regulations for the administration of veterans' preference in the excepted service. OPM is given no enforcement role, however, in recognition of the fact that such involvement would be incompatible with the nature of the excepted service.

The excepted service exists because it is not practical or desirable for certain kinds of jobs to be under the examination and appointment system administered by OPM. Portions of the Veterans' Preference Act pertaining to appointment matters prescribe specific requirements such as passover protections, adherence to the rule of three, certification from OPM registers, etc. Although these provisions apply in a general way in filling excepted jobs, the administration rests with the agency head. If OPM were responsible for enforcing veterans' preference in the excepted service, the distinction between the competitive and excepted services would become almost meaningless.

Regarding the Senior Executive Service (SES), it is now excluded from veterans' preference provisions by 5 U.S.C. 2108(3) and we do not believe these provisions can be extended to it. In passing the Civil Service Reform Act of 1978 which established the SES, Congress determined that SES positions are unlike any other positions in the Government by setting up an SES personnel system completely separate from the competitive and excepted services.

If you need additional information, please do not hesitate to contact me.

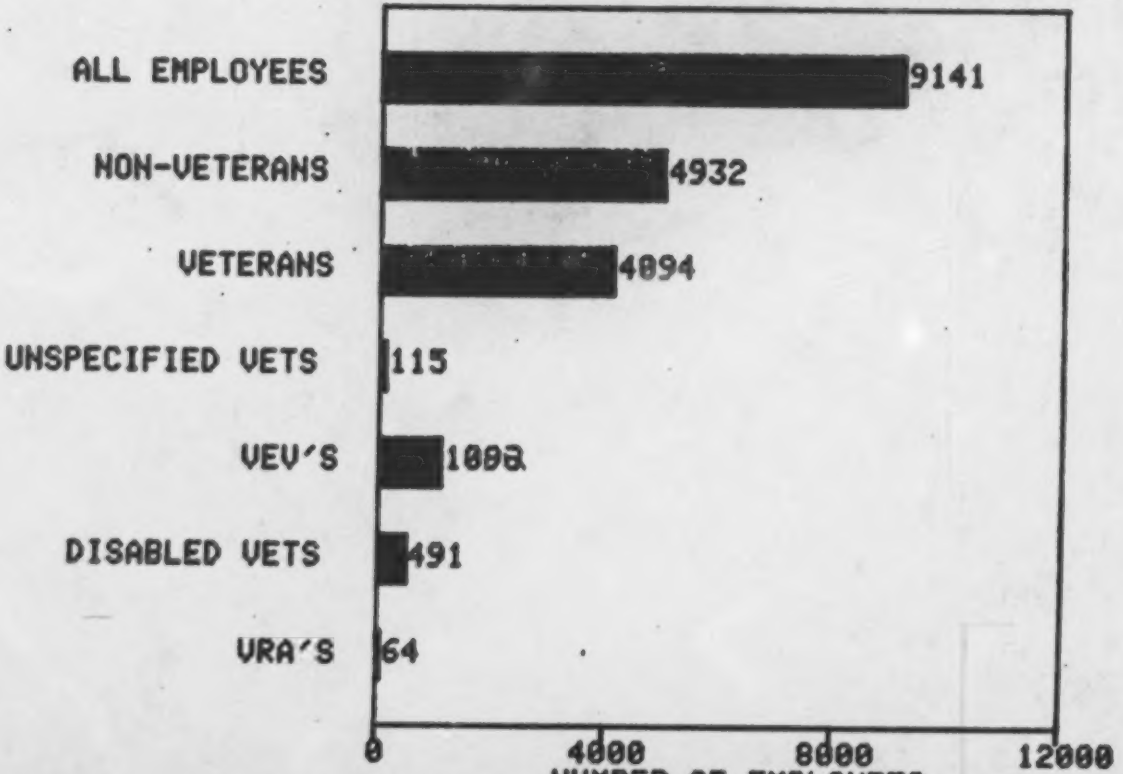
Sincerely,



Donald J. Devine
Director

Enclosures

CHART 1
REDUCTION-IN-FORCE ACTIONS
JANUARY 1981 THROUGH SEPTEMBER 1981



SOURCE: CENTRAL PERSONNEL DATA FILE.

Chart 2A: Reduction in Force Actions for Veterans and Non-veterans: January 1981 through September 1981

	Total	All Veterans		Disabled Veterans		Vietnam Era Veterans		Veterans Readjust Auth.		Non-Veterans		Unspecified Veterans 1/	
		#	% of Total 2/	#	% of Total 2/	#	% of Total	#	% of Total	#	% of Total 2/	#	% of Total
All RIF Actions	9,141	4,094	45.4%	491	5.4%	1,082	11.8%	64	0.7%	4,932	54.6%	115	1.3%
Separation RIF Actions	5,136	2,066	40.5	217	4.3	433	8.4	38	0.7	3,029	59.5	41	0.8
Retirement (Major RIF)	584	403	69.1	41	7.0	3	0.5	-	-	180	30.9	1	0.2
Resignation (RIF)	747	367	49.4	34	4.6	59	7.9	4	0.5	376	50.6	4	0.5
Reduction in Force	3,805	1,296	34.4	142	3.8	371	9.8	34	0.9	2,473	65.6	36	0.9
Non-separation RIF Actions	4,005	2,028	51.6	274	7.0	649	16.2	26	0.6	1,903	48.4	74	1.8
Furlough (RIF)	58	7	12.1	-	-	3	5.2	-	-	51	87.9	-	-
Change to Lower Grade (RIF)	257	122	48.4	17	6.7	52	20.2	7	2.7	130	51.6	5	1.9
Reassignment (RIF)	1,798	866	48.9	103	5.8	286	15.9	16	0.9	905	51.1	27	1.5
Position Change (RIF)	1,888	1,030	55.8	154	8.3	308	16.3	3	0.2	817	44.2	41	2.2
Grade Retention (RIF)	4	3	100.0	-	-	-	-	-	-	-	-	1	25.0

1/ Veterans preference designation was missing.

2/ Unspecified veterans are excluded from the base in calulating percents.

Source: Central Personnel Data File.

Coverage: - all agencies (including the United States Postal Service and the Administrative Office of the U.S. Courts);

- all work schedules (full-time, part-time and intermittent);

- and all Tenures (permanent and temporary).

Chart 2B: Comparison of RIF Separation Actions to Average On-board Employment from January 1981 through September 1981

	Average On-board Employment 1/		Separation RIF Actions	
	#	%	#	%
Total Employees	2,772,675	100.0%	5,136	100.0%
All Veterans 2/	1,177,124	43.7	2,066	40.5
Disabled Veterans 2/	167,395	6.2	217	4.3
Vietnam Era Veterans	363,532	13.1	433	8.4
Veterans Readjustment Auth.	38,136	1.4	38	0.7
Non-Veterans 2/	1,517,136	56.3	3,029	59.5
Unspecified Veterans 3/	78,415	2.8	41	0.8

1/ Average of on-board employment as of January 1981 and September 1981.

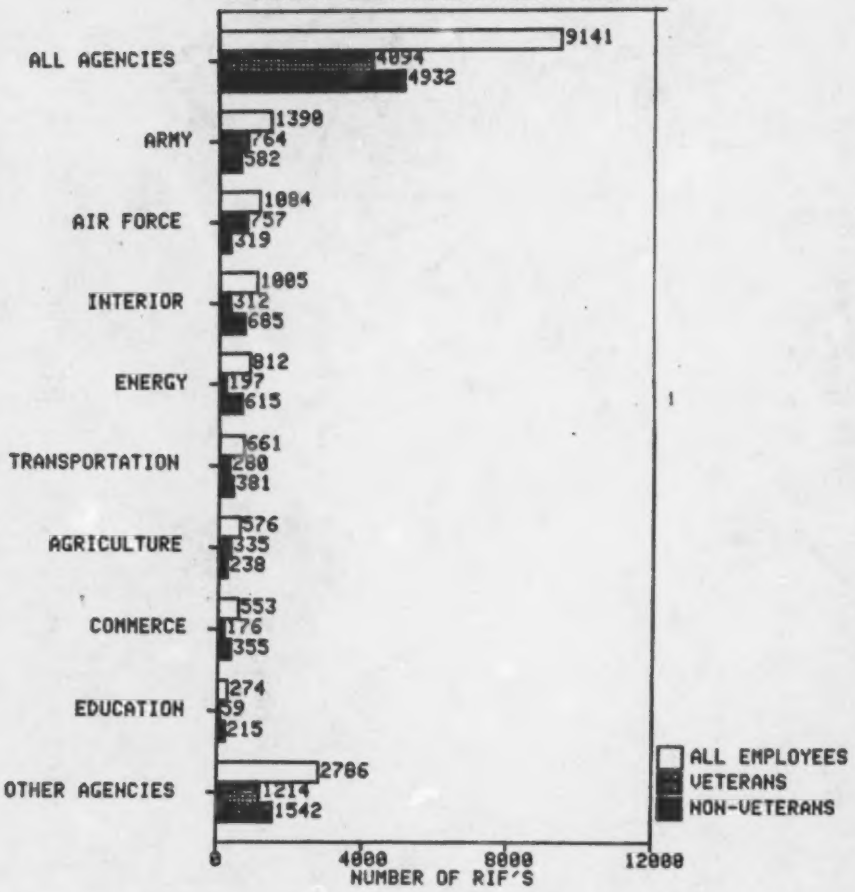
2/ Unspecified veterans are excluded from the base in calculating percents.

3/ Veterans preference designation was missing.

Source: Central Personnel Data File.

Coverage: - all agencies (including the United States Postal Service and the Administrative Office of the U.S. Courts);
- all work schedules (full-time, part-time, and intermittent);
- and all tenures (permanent and temporary).

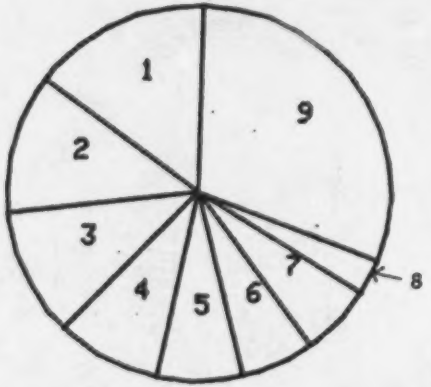
CHART 3
NUMBER OF REDUCTION-IN-FORCE ACTIONS
BY AGENCY BY VETERANS STATUS:
JANUARY 1981 THROUGH SEPTEMBER 1981



NOTE: 115 EMPLOYEES WITH UNSPECIFIED VETERAN STATUS ARE NOT SHOWN.

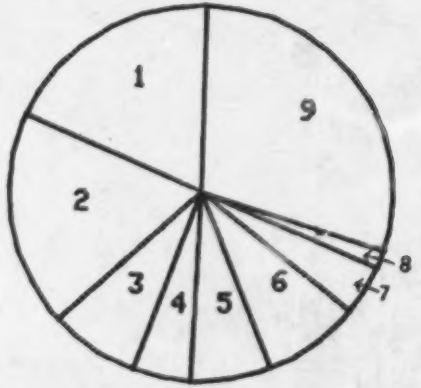
CHART 4. DISTRIBUTION OF TOTAL AND VETERAN RIF ACTIONS BY AGENCY
JANUARY 1981 THROUGH SEPTEMBER 1981

TOTAL RIF'S



1:	ARMY	HAS	15.21%
2:	AIR FORCE	HAS	11.86%
3:	INTERIOR	HAS	10.99%
4:	ENERGY	HAS	8.88%
5:	TRANSPORTATION	HAS	7.23%
6:	AGRICULTURE	HAS	6.30%
7:	COMMERCE	HAS	6.05%
8:	EDUCATION	HAS	3.00%
9:	OTHER AGENCIES	HAS	30.48%

VETERAN RIF'S



1:	ARMY	HAS	18.66%
2:	AIR FORCE	HAS	18.49%
3:	INTERIOR	HAS	7.62%
4:	ENERGY	HAS	4.81%
5:	TRANSPORTATION	HAS	6.84%
6:	AGRICULTURE	HAS	8.18%
7:	COMMERCE	HAS	4.30%
8:	EDUCATION	HAS	1.44%
9:	OTHER AGENCIES	HAS	29.65%

OFFICE OF PERSONNEL MANAGEMENT
SPECIAL EMPLOYMENT PROGRAMS SECTION

Executive Order 11935

Citizenship Requirements for Federal Employment

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Civil Service Rule VII (5 CFR Part 7) is hereby amended by adding thereto the following new section:

"SECTION 7.4 *Citizenship.*

"(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

"(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

"(c) The Commission may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.".

THE WHITE HOUSE,
September 2, 1976.

SUBPART A--CITIZENSHIP REQUIREMENTS

§ 338.101 CITIZENSHIP

(a) A person may be admitted to competitive examination only if he is a citizen of or owes permanent allegiance to the United States.

(b) A person may be given appointment only if he is a citizen of or owes permanent allegiance to the United States. However, a noncitizen may be given (1) a limited executive assignment under § 305.509 of this chapter in the absence of qualified citizens or (2) an appointment in rare cases under § 316.601 of this chapter, unless the appointment is prohibited by statute.

(c) Paragraph (b) of this section applies to reinstatement and transfer as well as to other noncompetitive appointments, and to conversion to career or career-conditional employment.

[33 FR 12429, Sept. 4, 1968]

VETERANS' PREFERENCE ELIGIBILITY

OPM's response. Veterans' perference eligibility, as it affects certain Public Health Service employees, is governed by three parts of the law, i.e., 5 U.S.C. 2101, 5 U.S.C. 2108, and 42 U.S.C. 213 (enclosures). Title 5, U.S.C. 2101 makes a distinction between the armed forces and the uniformed services. The Public Health Service is part of the uniformed services and not part of the Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard). Title 5, U.S.C. 2108 requires active duty in the armed forces as a requirement for perference. Title 42, U.S.C. 213 specifies the few instances when duty in the uniformed services can be held to be comparable to active duty in the armed forces. These instances are: duty in the time of declared war, detail to one of the armed forces, and those situations in which the President, by means of an Executive order, declares that the Public Health Service is part of our military services.

It is important to note that veterans' preference and veterans' benefits are governed by two separate portions of the law, 5 U.S.C. for veterans' preference and 38 U.S.C. for benefits. Thus, it is possible for veterans in the Public Health Service to receive benefits from the Veterans Administration and not be eligible for veterans' preference because of distinctions included in different parts of the law.

Enclosures.

Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

SEC.

2101. Civil service; armed forces; uniformed services.
2101a. The Senior Executive Service.
2102. The competitive service.
2103. The excepted service.
2104. Officer.
2105. Employee.
2106. Member of Congress.
2107. Congressional employee.
2108. Veteran: disabled veteran; preference eligible.
2109. Air traffic controller.

§ 2101. Civil service; armed forces; uniformed services

For the purpose of this title—

(1) the "civil service" consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services;

(2) "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and

(3) "uniformed services" means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the Environmental Science Services Administration.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 408, amended Pub. L. 90–83, § 1(4), Sept. 11, 1967, 81 Stat. 196.)

§ 2101a. The Senior Executive Service

The "Senior Executive Service" consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title). (Pub. L. 95–454, Oct. 13, 1978, 92 Stat. 1154.)

§ 2102. The competitive service

(a) The "competitive service" consists of—

(1) all civil service positions in the executive branch, except—

(A) positions which are specifically excepted from the competitive service by or under statute;

(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs; and

(C) positions in the Senior Executive Service;

(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute; and

(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.

(5) an employee of a Member of Congress if the pay of the employee is paid by the Secretary of the Senate or the Clerk of the House of Representatives;

(6) Repealed. Pub. L. 90–83, § 1(5)(A), Sept. 11, 1967, 81 Stat. 196;

(7) the Architect of the Capitol and an employee of the Architect of the Capitol;

(8) an employee of the Botanic Garden; and

(9) an employee of the Capitol Guide Service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 409, amended Pub. L. 90–83, § 1(5), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91–510, § 442(a), Oct. 26, 1970, 84 Stat. 1191.)

§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) "veteran" means an individual who—

(A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955; or

(B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before the date of the enactment of the Veterans' Education and Employment Assistance Act of 1976, not including service under section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

and who has been separated from the armed forces under honorable conditions;

(2) "disabled veteran" means an individual who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans' Administration or a military department; [and] [1]

(3) "preference eligible" means, *except as provided in paragraph (4) of this section*—[1]

(A) a veteran as defined by paragraph (1)(A) of this section;

(B) a veteran as defined by paragraph (1)(B) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

See footnote p. 86.

(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(G) the mother of a service-connected permanently and totally disabled veteran, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed[.] [1]

(4) except for the purposes of chapters 43 and 75 of this title, "preference eligible" does not include a retired member of the armed forces unless—

(A) the individual is a disabled veteran; or

(B) the individual retired below the rank of major or its equivalent; and

(5) "retired member of the armed forces" means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member, but does not include applicants for, or members of, the Senior Executive Service.[1]

(Pub L. 89–554, Sept. 6, 1966, 80 Stat. 410, amended Pub. L. 90–83, § 1(6), Sept. 11, 1967, 81 Stat. 196; Pub. L. 90–623, § 1(2), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 92–187, § 1 Dec. 15, 1971, 85 Stat. 644; Pub. L. 95–50, Oct. 15, 1976, 90 Stat. 2405; Pub. L. 95–454, Oct. 13, 1978, 92 Stat. 1147, 1154.)

§ 2109. Air traffic controller

For the purpose of this title, "air traffic controller" or "controller" means an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic, or who is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility. The Secretary of Transportation may prescribe regulations to determine the application of this section. (Added Pub. L. 92–297, § 1(a), May 16, 1972, 86 Stat. 141.)

[1] The effective date of the changes to this section which appear in black brackets and italics is Oct. 1, 1980.

§ 213. Military benefits; award of decorations; authority of Surgeon General; active service deemed to be active military service

(a) Except as provided in subsection (b) of this section, commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers—

(1) in time of war;

(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

July 1, 1944, c. 373, Title II, § 212, 58 Stat. 689; July 15, 1954, c. 507, § 14(a), 68 Stat. 481; Aug. 1, 1956, c. 837, Title V, § 501(b)(1), 70 Stat. 881.

Historical Note

References in Text. The Servicemen's Indemnity Act of 1951, referred to in subsec. (d) was Act Apr. 25, 1951, c. 39, Pt. I, 65 Stat. 33, and was repealed by section 502(9) of Act Aug. 1, 1956.

Codification. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by Act July 26, 1947, c. 343, Title II, § 205(a), 61 Stat. 501. Section 205(a) of Act July 26, 1947 was repealed by Act Aug. 10, 1956, c. 1041, § 53, 70A Stat. 641. Section 1 of Act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3011 to 3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

1956 Amendment. Act Aug. 1, 1956 amended section generally to extend all rights, privileges, immunities, and benefits provided for commissioned officers of the Army or their surviving beneficiaries to commissioned officers of the Service, with the exception of retired pay and

uniform allowances, when performing duty under certain circumstances, and to provide that active service of commissioned officers shall be deemed to be active military service in the Armed Forces for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

1954 Amendment. Subsec. (a)(1). Act July 15, 1954 struck out "burial payments in the event of death," after "limited to,".

Effective Date of 1948 Amendment; Applicability. Section 501(b)(2) of Act Aug. 1, 1956, provided that: "The amendment made by this subsection [to this section] (A) shall apply only with respect to service performed on or after July 4, 1952, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [Act July 16, 1952, c. 875, 66 Stat. 663], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) of this title], or under Veterans Regulation Numbered 9(a), for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

Transfer of Functions. All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg.Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies and employees, by 1950 Reorg.Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Coast Guard, referred to in this section is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Recomputation of Social Security Benefits for Officers Entitled to Old-age Insurance Benefits Prior to Jan. 1, 1957 or for Services of Officers who Died Prior to Jan. 1, 1957. Section 501(b)(3) of Act Aug. 1, 1956, provided that:

"In the case of any individual—

"(A) who performed active service (i) as a commissioned officer of the Public Health Service at any time during the period beginning July 4, 1952, and ending December 31, 1956, or (ii) as a commissioned officer of the Coast and Geodetic Survey at any time during the period beginning July 29, 1945, and ending December 31, 1956; and

"(B)(i) who became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] prior to January 1, 1957, or

"(ii) who died prior to January 1, 1957, and whose widow, child, or parent is entitled for the month of January 1957, on the basis of his wages and self-employment income, to a monthly survivor's benefit under section 202 of such Act [section 402 of this title]; and

"(C) any part of whose service described in subparagraph (A) was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by paragraph (1) of this subsection or paragraph (1) of subsection (d) had been effective prior to the date of such computation, the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by him or (if he dies without filing such an application) by any person entitled to monthly survivor's benefits under section 202 of such Act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [sections 401 to 425 of this title] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this paragraph shall be regarded as a recomputation under section 215(f) of the Social Security Act [section 415(f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which

the application was filed, but in no case for any month before January 1957."

Disposition of Remains of Deceased Personnel. Recovery, care, and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

Burial of Certain Commissioned Officers. Act Apr. 30, 1956, c. 227, 70 Stat. 124, provided: "That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the Act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the wife, widow, minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: Provided, That the remains of the wife, widow, and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery if, upon death, the related officer is not buried in the same or an adjoining gravesite."

Legislative History. For legislative history and purpose of Act July 1, 1944, see 1944 U.S.Code Cong.Service, p. 1211. See, also, Act July 15, 1954, 1954 U.S.Code Cong. and Adm.News, p. 2546; Act Aug. 1, 1956, 1956 U.S.Code Cong. and Adm. News, p. 3976.

Library References

Armed Services ⇐7. C.J.S. Army and Navy § 15.

Code of Federal Regulations

Awards and decorations, see 42 CFR 21.251 et seq.

Notes of Decisions

Personal injury claims 2
Purpose 1

1. Purpose

Intent of Congress in amending this section was to grant Public Health Service officers on detail with armed forces the identical federal rights available to commissioned army officers. Wanner v. Glen Ellen Corp., D.C.Vt.1974, 373 F.Supp. 983.

2. Personal injury claims

This section which grants Public Health Service officers on detail with the armed forces the identical federal rights available to commissioned army officers had no application to claim for loss of husband's services and consortium and medical expenses asserted by wife of lieutenant commander in the United States Public Health Service who was injured in skiing accident. Wanner v. Glen Ellen Corp., D.C.Vt.1974, 373 F.Supp. 983.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of Title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have

been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375 and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(b) The authority vested by Title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee.

July 1, 1944, c. 373, Title II, § 221, as added Aug. 10, 1956, c. 1041, § 4, 70A Stat. 619, and amended Sept. 2, 1958, Pub.L. 85–861, § 4, 72 Stat. 1547; Aug. 14, 1959, Pub.L. 86–160, § 3, 73 Stat. 359; July 27, 1962, Pub.L. 87–555, § 2, 76 Stat. 244; Oct. 2, 1963, Pub.L. 88–132, § 5(k), 77 Stat. 214; Aug. 14, 1964, Pub.L. 88–431, § 1(d), 78 Stat. 440; Aug. 14, 1966, Pub.L. 89–538, § 3(b), 80 Stat. 348; Sept. 21, 1972, Pub.L. 92–425, § 5, 86 Stat. 713.

Historical Note

Codification. Section 2 of Pub.L. 87–555 provided in part as follows: "Section 221 of the Public Health Service Act, as amended (42 U.S.C. 213a), is amended by adding the following new clause at the end thereof." Since the new clause is numbered "(9)" and subsection (a) contains clauses (1) through (8), the amendment was executed to subsection (a), which would appear to be the intent of Congress.

1972 Amendment. Subsec. (a). Pub.L. 92–425 substituted "Retired Serviceman's Family Protection Plan; Survivor Benefit Plan" for "Annuities Based on Retired or Retainer Pay" in cl. (5).

1966 Amendment. Subsec. (a). Pub.L. 89–538 added cl. (11).

1964 Amendment. Subsec. (a). Pub.L. 88–431 added cl. (10).

1963 Amendment. Subsec. (b). Pub.L. 88–132 included reference to the Secretary of Defense.

1962 Amendment. Subsec. (a). Pub.L. 87–555 added cl. (9).

1968 Amendment. Subsec. (a). Pub.L. 90-160 added cl. (1) and renumbered former cls. (1) to (7) as (2) to (8).

1958 Amendment. Subsec. (a). Pub.L. 85-861, substituted "provisions" for "chapters" in the opening clause, eliminated former cl. (1) which related to chapter 55 of Title 10, renumbered former cls. (2) to (6) as (1) to (5), amended cl. (1), as renumbered, to make sections 1201 to 1203 of Title 10 inapplicable to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days, inserted a reference to section 1374 of Title 10 in cl. (2), as renumbered, eliminated "Care of the Dead" which followed "Benefits" in cl. (5), as renumbered, and added cl. (6).

Effective Date of 1963 Amendment. Amendment of section by Pub.L. 88-132 effective Oct. 1, 1963, see section 14 of Pub.L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

Transfer of Functions. All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg.Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

Back Payments; Validation; Application; Limitations; Accountability of Disbursing Officers; Regulations. Transportation and travel allowances to escorts for dependents of members, see sections 4 to 7 of Pub.L. 86-160, set out as a note under section 1036 of Title 10, Armed Forces.

Designation of Beneficiary Made Before Jan. 1, 1956. Designation of beneficiary made before January 1, 1956, considered as the designation of a beneficiary for the purposes of section 4 of Pub.L. 85-861, which amended this section, see note set out under section 2771 of Title 10, Armed Forces.

Rules and Regulations; Savings Deposit Benefits. Regulations prescribed by the Secretary of Health, Education, and Welfare concerning savings deposit benefits for Public Health Service personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub.L. 89-538, set out as a note under section 1035 of Title 10, Armed Forces.

Legislative History. For legislative history and purpose of Act Aug. 10, 1956, see 1956 U.S.Code Cong. and Adm.News, p. 4613. See, also, Pub.L. 85-861, 1958 U.S.Code Cong. and Adm.News, p. 4615; Pub.L. 86-160, 1959 U.S.Code Cong. and Adm.News, p. 2116; Pub.L. 87-555, 1962 U.S.Code Cong. and Adm.News, p. 2009; Pub.L. 88-132, 1963 U.S.Code Cong. and Adm.News, p. 912; Pub.L. 88-431, 1964 U.S.Code Cong. and Adm.News, p. 2767; Pub.L. 89-538, 1966 U.S.Code Cong. and Adm.News, p. 2631; Pub.L. 92-425, 1972 U.S.Code Cong. and Adm.News, p. 3288.

Code of Federal Regulations

Compensation claims, disclosure of information, see 42 CFR 21.401.
Death benefits, see 42 CFR 21.331 et seq.
Disability retirement procedures, see 42 CFR 21.191 et seq.
Forms and procedures for settlement of accounts of deceased members of Armed Forces, see 4 CFR 34.1 et seq.
Travel allowances, see 42 CFR 21.351 et seq.

Notes of Decisions

1. Surviving beneficiaries

Wife of public health service officer was not within term "surviving beneficiaries" in this section granting public health service officers, and their surviving beneficiaries, with respect to active service performed by such officers on detail with armed forces, the identical federal rights available to commissioned army officers. Wanner v. Glen Ellen Corp., D.C.Vt.1974, 373 F.Supp. 983.

PREPARED STATEMENT OF PAUL S. EGAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, AND JAMES G. BOURIE, DIRECTOR OF ECONOMICS, THE AMERICAN LEGION

Mr. Chairman and members of this subcommittee:

The American Legion thanks you for allowing us this time to present its views on veterans employment/training programs under Chapter 41, 42 and 43 of title 38, United States Code. Pertinent resolutions passed by The American Legion are attached with the request that they be made part of the record.

Today marks our second appearance this year before this subcommittee on veterans employment/training problems. As a general proposition, The American Legion believes that veterans, especially Vietnam-era veterans (VEVs), suffer a greater degree of unemployment than other groups and that the system designed to assist them is near collapse.

We do not make these statements as a means to attract sympathy or engage in a heated debate with official number counters, but offer them as fact in hopes that all concerned can work together to identify significant problems and to seek solutions.

Mr. Chairman, our worst enemy is time. Too much time has been squandered on the employment/training needs of veterans without real results to alleviate veterans unemployment or underemployment. The VEV is approaching 36 years of age and the war has been over since 1975. Since that time Congress has indeed enacted measures to ensure that veterans be given the opportunity at employment/training programs. Yet, the problems persist. We can go back to the Manpower Development and Training Act (MDTA) of 1962 which specifically did not identify veterans, but targeted workers displaced by automation. Of course, the country did not have to deal with thousands of returning Vietnam veterans (VNVs) at that time, nor was there a soft economy. However, in 1973 with the

enactment of the Comprehensive Employment and Training Act (CETA), there were thousands of VNVs walking the streets in search of jobs and who were precluded from any participation.

The Legion has stated previously that we will not mourn the passing of CETA and we again reiterate that position today. CETA for veterans, especially VEVs, has been a total failure. Any degree of success with regard to veterans programs has not come about by a deep seated concern for veterans by the Department of Labor or Prime Sponsors, but because of persistence on the part of concerned community individuals that their Prime Sponsor follow the law and regulations. But we must look again at the law as enacted. Veterans were an afterthought with programs stillborn. For example, CETA identified VEVs, yet established prohibitive eligibility requirements such as: under 35 years; economically disadvantaged; length of unemployment; and other irrelevant requirements. Of the over 2 million CETA participants of all programs in 1980, only 10 percent were veterans, with only 4 percent VEVs, and about one percent disabled veterans. Because CETA was the only employment training game in town for veterans, the Legion and others attempted, to no avail, to remove those eligibility barriers; we did, however, have some success administratively, at least on paper. The truth to the matter is that there is rarely a veterans organization representative on Prime Sponsor Planning Councils; they are just not concerned with veterans.

This attitude is also endemic in the Department of Labor. Whenever there is a budget or personnel cut announced by the Department, the service organizations brace for battle as the Veterans Employment Service (VES) is the traditional whipping boy. Last

February the Secretary of Labor assured us all program cuts would be fair, then attempted to eliminate the 52 field secretary positions, a 32.5 percent cut - more than any other program area. They later recommended that the Employment Service (ES) absorb the cost of the Disabled Vietnam Outreach Programs (DVOP); recommended, if only internally, that the program even be eliminated and now may propose the elimination of the Regional Directors for Veterans Employment Service.

Mr. Chairman, let us look briefly at the VES. In theory, it is to be a sophisticated network of highly trained VES personnel who assist and monitor the states' veterans employment programs. In reality, it is a program which over the years has been the target, either directly or indirectly, of every Department cut and the dumping ground for every unwanted individual. The program is rife with vacancies; stifled by lack of adequate funding and has lost sight of its mission. These problems, we believe, stem from its very beginnings wherein Congress established the VES but the Department first placed it under the United States Employment Service (USES), then under the Employment and Training Administration(ETA); buried beneath layers of bureaucracy and neglect. Consequently, the VES was, and is, fighting with one arm tied behind its back. They have no authority over states who fall out of compliance. Their mission is to monitor states' veterans programs as administered by the ES. Therefore, if the states care not to provide veterans the full measure and range of programs, they are free to do so with impunity. Make no mistake about it, violations by the states of priority of services to veterans are very pervasive. Most states do not have the required number of Local Veterans Employment Representatives (LVERs); there are LVERs who are not veterans; LVERs

perform non-veteran functions; they are the first to be affected by Reduction In Force (RIF) and displaced; their function is that of an interviewer with no career ES structure; and little or no time for job development. Moreover, ES offices do not provide veterans with any special preference as required; do not have lobby signs posted listing veterans rights or otherwise comply with federal regulations; and do not keep the State Director of Veterans Employment (SDVE) abreast of ES developments. The list of violations is endless and is specifically developed in Management Review of ES Service to Veterans, November 1979, prepared for the ETA. These problems will most assuredly carry over into the DVOP program. Since February, the service organizations have been at odds with the Department over funding and staffing, let alone how the program will be implemented. And who is to monitor both the LVERs and DVOPs? The VES currently has 2 State Directors of Veterans Employment (SDVEs), 13 Assistant Directors of Veterans Employment (ASDVEs) and 8 Field Secretary positions vacant, with 22 VES positions that could become vacant at any time. Importantly, many of those secretarial positions have been vacant for 18 months or longer. State Directors without clerical support must type their own letters or otherwise find someone to do it; they must perform all tasks of the absent clerical. The Legion has pointed out to the Department, more than once, that these positions are mandated by law. We even have cited controlling federal cases. All to no avail. The ETA has a self-imposed hiring freeze and will not budge. Thus, they have, in effect, placed themselves above the law.

Mr. Chairman, we, nonetheless, remain optimistic. With the enactment of P.L. 96-466 there was created the position of

Assistant Secretary of Veterans Employment (ASVE). It is our hope that that position will be accorded the full potential of an assistant secretary, especially in the area of budget and personnel. We believe these two items will be the first step in cleaning up the VES. They must first put their own house in order and we pledge the full cooperation of the Legion in assisting them.

But what of the unemployed or underemployed veteran? What is or can be offered to him? Chances are he is ineligible for CETA and Unemployment Compensation for Ex-service Personnel (UCX); Veterans Administration On-The-Job Training (VAOJT) is nearly nonexistent. Those that find CETA slots become frustrated and disillusioned. The simple truth is that there is nothing for veterans. Therefore, is it any wonder that many thousands of VEVs have simply dropped out - cynical and distrustful? And what is to become of the growing number of older veterans who are currently seeking veterans programs?

Surely this country has a trust obligation to each and every one of them; a continuous and overriding commitment. But that commitment in terms of real programs must be there and not illusory.

As we all know, the Administration is currently phasing out CETA and proposes a block grant approach. It is believed by providing to the states the maximum latitude with minimum federal entanglement they will, of their own volition, design, implement and monitor manpower programs predicated on their respective needs. In principle, The American Legion is in favor of this concept. However, we have grave reservations that states will indeed acknowledge the manpower needs of its veterans. Historically, they have not addressed

those needs. As far as veterans are concerned, we, for one, would feel more comfortable if veterans are made a top national priority both in philosophy and practice with federal "strings" attached to the funds with the VES somehow involved in the structure and process.

But there is another approach here, Mr. Chairman, one which has merit and deserves close attention. We believe funds should be appropriated specifically designated for the VES to design, implement and monitor veteran manpower programs. This concept is not new as other groups have separate program appropriations.

The best approach to future veterans manpower programs is not with the ES. They have failed in the past to provide veterans with programs and will be sure to fail in the future. A new and innovative approach must be sought.

Our concept is quite simple in design and implementation. With approximately $20-30 million, the VES could contract with bona fide veteran Community Based Organizations (CBOs) for the design and implementation of veterans' manpower programs. Monitoring of the programs would be the responsibility of the respective State and Assistant State Director of Veterans Employment (S/ASDVE). Currently there are hundreds of CBOs operating within communities across the nation. The Legion itself operates the highly successful DVOP program in Maine and one of five Veterans Outreach Centers in Pennsylvania. As regards the Maine program, since assuming administrative control in 1977, the Legion's Department of Maine has placed over 3,000 veterans in jobs, made over 46,000 referrals to other social agencies and all at a cost of only $200 per placement. These programs enjoy excellent results in the areas of job counseling, referral, and job development within

the community. All CBO employees live in the community and are thus not "identified" with the federal bureaucracy. Most, if not all, of these programs exist on Governors' discretionary CETA funds, a future funding source very much in doubt. In fact, we are aware of the termination of at least six programs which served hundreds of veterans per month.

The ES has been established for over 60 years, growing to today's sophisticated network of nationwide local offices program experts and advanced Job Service electronics. Yet their nationwide job placement average is only approximately 12 percent. On the other hand, veteran CBOs are a relatively new community phenomenon. They operate with limited funds, cast-off furnishings and are totally dependent upon the community. Yet their nationwide average veteran employment placement is a remarkable 10 percent. Their success is underscored in the study, Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers (The Center for Policy Research, 1981), wherein it was pointed out that traditional bureaucratic approaches to service delivery do not address the needs of VEV and suggests that the peer counseling approach is most successful in service delivery and that veterans, particularly disabled and VEVs, respond best to non-bureaucratic approaches in community settings.

Is it so unconceivable then, for these CBOs to be given the opportunity to continue their programs. And how much would it cost for one year's operation - $100,000, $200,000? Considering the return involved in terms of unemployment compensation, welfare, etc., the cost becomes insignificant. More important, these CBOs do in fact have a positive track record. Further, the Lou Harris Survey entitled Myths and Realities pointed out that of the sampled

population, 66% supported increased funding with only 1% against and that over 77% supported veterans employment programs. As stated, traditional methods have failed; perhaps now is the time for new ideas. If the Administration is concerned with scarce resources, maximum return on dollars, and voluntarism, then surely these CBOs have done more with less and have the support and involvement of nearly all local community organizations. This approach would also cause the VES to move from an inactive to an active role and to be responsive to the needs of veterans as Congress intended. They must not in the future spend their time chasing and prodding the ES. They must be invloved with all veterans employment training aspects. The role of the ES would, nonetheless, remain unchanged. They would still be required to provide veterans preference to all veterans. However, rather than the primary deliverer of services to veterans, they would become simply another delivery source for veterans. This is not to advocate a diminished role for the ES, as there are services and progarams that only the ES can provide and CBO programs may not be suited to all veterans. Thus, the ES remains an important part of the overall picture.

No doubt there will be those who will view this approach with skepticism and will perceive both real and imagined problems. Of course there will be problems; and of course this is a radical approach. But past programs and approaches have failed while the severe problem of veterans employment and training continues and will continue. The key to this idea is that, unlike CETA, contracts will not be let arbitrarily, nor would there be thousands of contracts attempting to solve every social ill. At best, there would only be less than three hundred CBOs nationwide at the beginning;

perhaps 4-5 per state; this would ensure contract control and monitoring by the respective S/ASDVE. Moreover, CBOs would be required to submit regular contract progress reports and S/ASDVEs would be required to make on-site visits and, if necessary, could modify or terminate a contract with the approval of the office of ASVE. We believe the concept will have rough spots, but nothing insurmountable or fatal. As stated earlier, time is short and familiar and comfortable approaches have failed. If nothing positive is done, and done soon, this country will have lost forever a most valuable asset in the veteran and will have confirmed his worst fear: that his country does not care.

Mr. Chairman, we are not so naive as to believe that the VES in its present managerial form is ready to handle millions of taxpayers dollars. We all know the VES needs to clean house and put its affairs in order before one penny is appropriated. But we believe they can and will stabilize under the direction of a strong and committed ASVE; at that time the Legion will be glad to work with them to ensure a decent veteran manpower program, as we have over the years and are now.

We are also very concerned that, as required by Section 2012 of Chapter 42, federal contractors are not taking affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. For the most part, federal contractors simply do not file affirmative action plans as regard veterans. This is one area which is especially disturbing to us as one cannot help but notice in publications the amount of government contracts being entered into. Moreover, there is really no relief for the veteran who feels qualified for a particular

position with a government contractor. The Office of Federal Contract Compliance Programs (OFCCP) has never enforced Section 2012 as Congress intended, but, in the past, has concerned itself with enforcement of Executive Orders aimed at other groups. We are not aware of one disbarment of a federal contractor because of violating the above section; nor are we aware of an aggressive attitude to enforce that section. As a practical consideration, OFCCP does not have the staff or the budget to pursue the provisions, and is overburdened with filings from other groups. Added to this mix is the reality that most qualified veterans do not know of this provision or how he/she may file a complaint and with whom. In short, Section 2012 is a hollow provision and a victim of neglect and apathy.

Mr. Chairman, The American Legion has enjoyed an excellent relationship with the United States Office of Personnel Management and its Director, the Honorable Donald Devine. Mr. Devine and his staff are receptive to our ideas and sensitive to our problems. They, like us, are strongly in favor of the Veterans Readjustment Appointments program under Section 2014. And we are very pleased that they favor the three-year extension of the program. There is no doubt that since its inception in 1970 it has done more to attract Vietnam-era veterans into the federal service than any other veterans' program. However, we perceive serious problems with the program in the months ahead. We believe the program is under-utilized by agencies, with some agencies even not knowing about it; veterans are hired at low entry level positions, rather than at the allowable GS-7 level; there is a high rate of voluntary terminations; and a lack of adequate monitoring. We have fully discussed these,

and other program problems, with Mr. Devine and his staff, and I am pleased to state that they also share our concerns and are working to overcome these difficulties.

Mr. Chairman, The American Legion is indeed troubled over the future of the Office of Veterans Reemployment Rights (OVRR) which enforces Section 2021 of Chapter 43. We compliment their staff for the dedication and tenacity they have shown in pursuing their mission as they have successfully concluded several landmark cases. Nonetheless, they are currently understaffed and overburdened; and if they are forced to absorb more cuts, they will assume no new case work. In effect, the program will shut down. As an aside, the Legion would like to see the OVRR removed from the Labor-Management Services Administration and placed under the authority of the Assistant Secretary of Labor for Veterans Employment. In our view this is the most logical procedure to ensure a cohesive veterans program within the Department of Labor.

Mr. Chairman, if some of our comments today seem acerbic it is because The American Legion played an important role in establishing the VES program and therefore feels it has the corresponding right to criticize that program when appropriate. Our one primary obligation is to all veterans who would benefit from employment/training programs; not to any one individual or program. We shall, therefore, remain critical and active until such time as these programs are implemented with the veteran's best interest in mind.

Mr. Chairman, The American Legion thanks you and this subcommittee for allowing us the opportunity to present its views.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 40

COMMITTEE : ECONOMICS

SUBJECT : DISABLED VETERANS OUTREACH PROGRAM

WHEREAS, Congress made permanent the Disabled Veterans Outreach Program with the enactment of PL 96-466 (38 USC 2003A); and

WHEREAS, Appropriations for the program are authorized under title 42, Section 1101, United States Code; and

WHEREAS, Under that authorization are all employment activity services, but not identified as specific line item budget amounts within the Department of Labor's Employment and Training Administration budget; and

WHEREAS, Such fiscal grouping of programs may cause other programs to be funded to the detriment of the Disabled Veterans Outreach Program; and

WHEREAS, Such fiscal grouping of programs provides no fiscal control and accountability of the Disabled Veterans Outreach Program; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion urge Congress and/or the Department of Labor to provide the Disabled Veterans Outreach Program with specific and separate line item budget requests; and be it further

RESOLVED, That the Department of Labor be urged to implement an effective administrative control mechanism to ensure Disabled Veterans Outreach funds are being utilized for the intended purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 72

COMMITTEE : ECONOMICS

SUBJECT : ADEQUATE FUNDING FOR THE VETERANS EMPLOYMENT SERVICE

WHEREAS, Chapters 41 and 42, title 38, United States Code, provide for an effective job placement, counseling and training programs for veterans, and provide, in Chapter 41, that the Secretary of Labor provide necessary funds for this purpose; and

WHEREAS, The U.S. Department of Labor has not fully responded with meaningful and productive efforts to provide for maximum employment and training opportunities for veterans; and

WHEREAS, The U.S. Department of Labor inadequately funds the Veterans Employment Service of the U.S. Department of Labor; and

WHEREAS, Such underfunding compounds the problem of unemployment of veterans, especially unemployment problems of disabled and Vietnam era veterans, which continue to remain at high and unacceptable levels; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion request that the Secretary of Labor shall submit to Congress a line item budget for the operation of the Veterans Employment Service; and require fiscal accountability to ensure that funds appropriated for the Veterans Employment Service are used for such purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 104

COMMITTEE : ECONOMICS

SUBJECT : FULL ENFORCEMENT OF REQUIREMENTS FOR AFFIRMATIVE ACTION FOR ELIGIBLE VETERANS BY FEDERAL CONTRACTORS

WHEREAS, Chapter 42, Section 2012 of title 38, United States Code, requires that any private contractor or subcontractor who has a government contract for the procurement of personal property and nonpersonal services of $10,000 or more shall take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era; and

WHEREAS, This federal statute further requires contractors to list "immediately" with the local Job Service office all of its suitable employment openings; and

WHEREAS, Enforcement of this requirement is vested in the Office of Federal Contract Compliance of the Department of Labor; and

WHEREAS, The Office of Federal Contract Compliance has not, in any meaningful and substantive way, enforced the above provisions; and

WHEREAS, There has been, and is, a blatant disregard of the above provisions by both the Office of Federal Contract Compliance and private contractors, thus denying qualified veterans employment opportunities within the private sector; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that the Office of Federal Contract Compliance in the United States Department of Labor be required to fully enforce the provisions of Section 2012 of title 38, United States Code, which are intended to help eligible veterans to find employment with contractors having federal contracts.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 278

COMMITTEE : ECONOMICS

SUBJECT : AMERICAN LEGION ACTIVITY TO ENSURE AT STATE/LOCAL LEVELS MAXIMUM PARTICIPATION OF VETERANS IN FEDERAL FUNDED MANPOWER PROGRAMS

WHEREAS, The future status of the Comprehensive Employment and Training Act (CETA) under PL 9-203 is in doubt as the Department of Labor is planning for the consolidation, realignment or elimination of many programs under CETA; and

WHEREAS, This readjustment will have a severe effect on veterans' employment/training programs; and

WHEREAS, Under the CETA concept, veterans, especially Vietnam era veterans, were at no time a viable part of CETA; and

WHEREAS, The Administration proposes a return to the Block Grant system, wherein federal monies will be utilized by the states in best deciding employment/training programs based on state/local needs; and

WHEREAS, A Block Grant system will better address the employment/training needs of all veterans; and

WHEREAS, Respective state governors will be vested with the authority on how best to utilize these federal funds; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion call upon all department officers, post officers, and individual members of The American Legion to contact their respective state governors indicating that any state employment and training programs utilizing federal funds must include special programs for veterans employment and training.

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SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 302

COMMITTEE : ECONOMICS

SUBJECT : OPPOSE ANY CHANGES IN THE WAGNER-PEYSER ACT HAVING AN ADVERSE EFFECT ON VETERANS

WHEREAS, The Congress, in the passage of the Wagner-Peyser Act of 1933, provided, in part, for the creation of the United States Employment Service; and

WHEREAS, Employment programs authorized by the Act directly benefit veterans; and

WHEREAS, Present budgetary reductions of these programs will have a profound detrimental effect on the employment of veterans; and

WHEREAS, These budgetary reductions will cause untold harm to the State employment security agencies as regard staffing, placement and programs; and

WHEREAS, The State employment security agencies are already under a 30,000 personnel ceiling since 1966 in a labor market which has expanded its demand for services over 30 percent; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion oppose any changes in the Wagner-Peyser Act as regard to programs that benefit veterans; and be it further

RESOLVED, That The American Legion urge full funding of all United States Employment Service programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 346

COMMITTEE : ECONOMICS

SUBJECT : PREFERENCE AND SPECIAL CONSIDERATION FOR VETERANS IN ALL BLOCK GRANT MANPOWER PROGRAMS FUNDED BY THE FEDERAL GOVERNMENT

WHEREAS, The Administration proposes the elimination of present federally funded employment and training programs; and

WHEREAS, The Administration proposes categorical block grants to states which will enable the states to design and implement their own programs based on state needs; and

WHEREAS, Veterans have never been a viable part of previously funded employment/training programs under the Comprehensive Employment and Training Act; and

WHEREAS, Veterans, especially Vietnam era veterans, suffer a higher unemployment rate than their nonveteran counterparts; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that both the Congress and the Administration be petitioned to ensure that veterans are made a substantive and meaningful part of any future federally funded manpower programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 441

COMMITTEE : ECONOMICS

SUBJECT : SEEK LEGISLATION TO SECURE SECRETARIAL POSITIONS AS FEDERAL EMPLOYEES FOR EACH STATE DIRECTOR FOR VETERANS EMPLOYMENT

WHEREAS, PL 96-466 (38 USC 2003) placed responsibility to appoint full-time clerical support assistance for each State Director of Veterans Employment upon the Secretary of Labor; and

WHEREAS, Congress, in enacting section 2003, made no provision that these positions should be federal employees; and

WHEREAS, Such ambiguous wording has caused the Department of Labor to interpret section 2003 to place staffing responsibility on the respective states; and

WHEREAS, Such status as State employees would have a severe detrimental impact on State Directors of Veterans Employment; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion seek legislation to amend 38 United States Code, 2003, to secure for each State Director of Veterans Employment full-time federal clerical support.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 468

COMMITTEE : ECONOMICS

SUBJECT : SUPPORT LEGISLATION FOR FLEXIBLE PLACEMENT FOR DISABLED VETERANS OUTREACH PROGRAM

WHEREAS, The Disabled Veterans Outreach Program (DVOP) is mandated by statute, under 38 USC 2003A, with approximately 2,000 nationwide staffers; and

WHEREAS, The requirements of Section 2003A(b)(2) provide that "no more than three-fourth of the DVOP specialists in each State shall be stationed at local employment offices in such State"; and

WHEREAS, The proposed budget cuts to the State employment security agencies may necessitate the curtailment of many local Job Service offices; and

WHEREAS, Such Job Service office curtailments will have a negative impact on the effective placement of DVOP staffers and will further hinder the implementation of the program; and

WHEREAS, The Assistant Secretary of Labor for Veterans Employment should, when warranted, be given the managerial flexibility to place DVOP staffers in offices other than local Job Service offices that would maximize their effectiveness and efficiency; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion seek to amend the law (38 USC 2003A(b) (2)) that requires that three-fourth of all staff under the Disabled Veterans Outreach Program be placed in local state employment security agency offices and, instead, provide the Assistant Secretary of Labor for Veterans Employment with authority to place DVOP staff, when warranted for the greatest efficiency, at any time, and in any number, in offices other than local state employment security agency offices.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 497

COMMITTEE : ECONOMICS

SUBJECT : OPPOSE ANY MODIFICATION OF THE REGULATIONS REGARDING PLACEMENT OF LOCAL VETERANS EMPLOYMENT REPRESENTATIVES

WHEREAS, Title 38, United States Code, Section 2004, establishes that the Secretary of Labor shall assign to each local State employment security agency one or more veterans representative; and

WHEREAS, Subsequent regulations promulgated by the Department of Labor at 20 CFR 653 state that local veterans employment representatives (LVER) be assigned to every full functional local employment service office that has at least 6,000 veterans in population within its administrative area, or that had at least 1,000 new and renewed applications from veterans in the past 12 months; and

WHEREAS, From time to time a movement is generated to amend 20 CFR 653 as to eliminate the employment services for veterans or modify the above requirement; and

WHEREAS, Many proposed modifications and/or amendments would have a severe negative impact on full employment services to veterans; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion oppose any modification and/or amendment to 20 CFR 653 relative to the placement of local veterans employment representatives that would have a negative impact on veterans employment services; and be if further

RESOLVED, That steps be taken to ensure that all local State employment security agency offices do, in fact, have the required number of LVERS and that they are, in fact, being fully utilized for veterans employment services as provided by law.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 517

COMMITTEE : ECONOMICS

SUBJECT : REQUIRE THE DEPARTMENT OF LABOR TO PROVIDE THE OFFICE OF ASSISTANT SECRETARY OF VETERANS EMPLOYMENT WITH SEPARATE LINE ITEM BUDGETS FOR ADMINISTRATION AND VETERANS PROGRAMS

WHEREAS, PL 96-466 elevated the Deputy Assistant Secretary of Labor for Veterans Employment position to a full Assistant Secretary for Veterans Employment and statutorily mandated the Disabled Veterans Outreach Program with administrative responsibility to the ASVE; and

WHEREAS, PL 96-466 can only be properly carried out by realigning the currently fragmented veterans programs within the Department of Labor under the ASVE; and

WHEREAS, The ASVE must administer veterans programs, but will have no control or influence over budgets for these programs since budget items for these employment programs for veterans must remain with the parent program component; now therefore be it

RESOLVED, By The American Legion, in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion require the Department of Labor to provide the office of the Assistant Secretary of Labor for Veterans Employment with separate and distinct line item budget for the administration of veterans programs; and be it further

RESOLVED, Seek to have all veterans programs within the Department of Labor aligned under the office of the Assistant Secretary for Veterans Employment.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA, OCTOBER 15-16, 1980

RESOLUTION NO. : 34

COMMITTEE : ECONOMICS

SUBJECT : SWIFT AND EFFECTIVE IMPLEMENTATION OF 1980 VETERANS EMPLOYMENT ASSISTANCE AMENDMENTS

WHEREAS, Title 38, United States Code, has recently been amended by Congress to improve employment services to veterans by, among other things, creating an Assistant Secretary of Veterans Employment to advise the Secretary of Labor and have other responsibilities; and by converting the present administratively established and separately funded Disabled Veterans Outreach Program (DVOP) to an ongoing Department of Labor/State operated veterans employment and training outreach program; and

WHEREAS, The unemployment rate for veterans in the 25-29 year age group, which comprises 85 percent of all Vietnam era veterans, was 7.1 percent in July 1980, compared to the 6.4 percent rate for nonveterans in the same age group, and more than twice the rate for these Vietnam era veterans in July 1979, thus necessitating effective implementation of these new provisions; and

WHEREAS, While Congress provided that DVOP shall continue, no provision was made for the funds necessary to continue this program; and

WHEREAS, The Assistant Secretary of Veterans Employment should be a veteran in order to fulfill his responsibility and obligation to effectively implement the veterans employment program within the Department of Labor; now therefore be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 15-16, 1980, that The American Legion urge the President to immediately appoint an Assistant Secretary of Labor for Veterans Employment as mandated by Congress, and that this appointee be a veteran in order that the existing and newly mandated responsibilities of the Department of Labor for promoting full employment of veterans be effectively carried out; and be it further

RESOLVED, That the Secretary of Labor be urged to immediately make adequate funds available for effectively continuing the Disabled Veterans Outreach Program with full staffing and responsibility as mandated by Congress.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA

OCTOBER 15-16, 1981

RESOLUTION NO. : 23

COMMITTEE : ECONOMICS

SUBJECT : OPPOSE ELIMINATION OF UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN (UCX) WHO COMPLETE THEIR MILITARY SERVICE CONTRACT

WHEREAS, The Omnibus Reconciliation Act of 1981 amended Section 8521 of title 5, United States Code, to preclude the payment of unemployment compensation benefits to military people who are eligible for re-enlistment; and

WHEREAS, Unemployment compensation provides the ex-service person with temporary subsistence while seeking civilian employment; and

WHEREAS, Ex-service people are in general unable to seek permanent civilian employment while in the military since their miliary station is likely not in the same geographic area where they intend to reside; and

WHEREAS, Individuals who are not eligible for re-enlistment are rewarded with unemployment compensation benefits and the change, therefore, discriminates against those who are; now therefore be it

RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 14-15, 1981, that The American Legion oppose the elimination of unemployment compensation for ex-servicemen; and be it further

RESOLVED, That The American Legion seek the appropriate remedies to amend Section 8521 of title 5, United States Code, to allow ex-servicepeople to collect unemployment compensation.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
OCTOBER 14-15, 1981

RESOLUTION NO. : 22

COMMITTEE : ECONOMICS

SUBJECT : SEEK ESTABLISHMENT OF SEPARATE VETERANS EMPLOYMENT TRAINING PROGRAM APPROPRIATIONS TO BE ADMINISTERED BY THE VES

WHEREAS, The employment training needs of all veterans, especially Vietnam era veterans and disabled veterans, are substantially diverse from the employment training needs of other groups served by current manpower programs; and

WHEREAS, Programs under the Comprehensive Employment and Training Act have never delivered adequate services to veterans despite federal requirements and guidelines; and

WHEREAS, The current Administration proposes the elimination of CETA in many respects and to substitute manpower programs to be administered by the states predicated on their respective needs; and

WHEREAS, Based on this proposal States and the State ES system have not been historically responsible to the manpower needs of their veterans; and

WHEREAS, Chapter 41 of title 38, United States Code, provides that the VES, among other things, is to design and implement veterans employment training programs; and

WHEREAS, Congress has never appropriated funds for the VES to specifically address the severe problem of veterans unemployment and underemployment; and

WHEREAS, This inability to actively and decisively affect veterans employment training has caused the VES to assume a passive and secondary role; and

WHEREAS, The appropriation of separate funds for the VES to design, implement and monitor veterans; employment programs would have a profound positive effect on underemployed and unemployed veterans; now therefore be it

RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 14-15, 1981, that The American Legion seek to have Congress appropriate funds specially earmarked for the use of the VES to design, implement and monitor manpower training programs to meet the unemployment and underemployment needs of veterans.

Prepared Statement of James N. Magill, Special Assistant, National Legislative Service, Veterans of Foreign Wars of the United States

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the privilege of appearing before this distinguished Subcommittee to present the views of the Veterans of Foreign Wars of the United States with respect to employment of veterans in the federal government. The VFW is appreciative of this Subcommittee for holding this hearing and demonstrating its continuing concern with veteran employment programs conducted by the federal government.

We believe that suitable employment is a basic element in a veterans readjustment process and the federal government is in a unique position to assume an active and constructive leadership role in that process. Unfortunately, the efforts demonstrated by this administration lead one to question if they are more concerned with rhetoric rather than action. By way of example, as of last week twenty-one legislatively mandated positions within the Veterans Employment Service (VES) continue to remain vacant, and one such vacancy has existed for almost 3 years. Specifically, these vacancies are 2 State Directors, 12 Assistant Directors, and 7 Secretaries. The VFW has repeatedly expressed concern to officials within the Department of Labor regarding these vacancies

and that of the vacant position of Assistant Secretary of Labor for Veterans Employment. In addition, we certainly oppose the recent attempts to eliminate the 52 VES secretarial positions and in fact urge that current law be amended to clearly indicate the intent of Section 505 of Chapter 41 Title 38 is to mandate Federal Civil Service secretaries at the State Director level. Furthermore, that necessary funding be included in Department of Labor appropriations to support this activity. We were gratified to learn that William C. Plowden, Jr., has been nominated to the position of Assistant Secretary of Labor for Veterans Employment and we look forward to his swift confirmation by the U.S. Senate. However, the twenty-one VES vacancies are still a reality and must be acted upon immediately. We suspect the delay in filling these positions is three fold: (1) The Department of Labor saves money by not filling the positions; (2) Position cuts are easier to make when the position to be cut is vacant; and, (3) The longer the vacancy exists, the easier it is to justify abolishing it. We certainly expect the new Assistant Secretary to make these appointments a priority.

Mr. Chairman, one of our key resolutions acted upon by the Congress this past year was with respect to the Disabled Veterans Outreach Program (DVOP). Section 506 of Public Law 96-466 amended 38 USC 41 by adding a new section to establish DVOP as a permanent, DOL funded program. Our enthusiasm was short lived, however, when we discovered that the DOL is having the State Employment Service (SES) absorb the staffing of this program. While we are cognizant of the fact that no specific line item funding source was provided in Public Law 96-466, we strongly believe it was never Congressionally intended to fund DVOP from the State Employment Service. In a letter to Secretary Donovan, the VFW asked the DVOP funding come through other means rather than the already limited State Employment Service staffing level.

We were very encouraged with the appointment of Dr. Donald J. Devine as Director of the U.S. Office of Personnel Management. In a statement before this Subcommittee, Mr. Devine gave the distinct impression he is a veterans advocate and strong supporter of

veterans preference; a complete reversal of the policies of his predecessor. What continues to concern us however, is the non-support, both in funding and staffing, within OPM's Office of Veterans' Affairs. Recently, OPM announced it was assuming the Equal Employment Opportunity Commission's responsibility to enforce government affirmative action plans for disabled veterans, a gesture we believe could be extremely beneficial to disabled veterans. However, with OPM's Office of Veterans' Affairs staffed by only 3 career status positions and complimented by only one part-time position, we seriously question its ability to accomplish this mission. Here again we seem to have an agency whose apparent intentions are admirable, but whose implementing process is questionable.

Mr. Chairman, the VFW has testified numerous times regarding veterans preference. With reductions-in-force occuring almost on a daily basis we would be less than candid if we did not express our concern. The VFW expects the law to be upheld and enforced with respect to this matter. As we have stated in previous testimony, the abolishment of an agency, such as the Civil Aeronautics Board (CAB), has presented a unique problem for veterans employed by the federal government. In a situation where a function is abolished, the veteran is denied the right to transfer to a new agency. We believe this was never the intent of Congress. Fortunately, OPM Director Devine shares this belief and has granted a special waiver to the CAB, allowing veterans time to transfer to other federal employment. He has also stated he will offer similar protection to veterans throughout the government. We applaud this action and respectfully suggest that Congress amend the Veterans Preference Act of 1944 to make this process a matter of law.

Mr. Chairman, the Veterans Readjustment Appointment (VRA) Program was established on March 26, 1970, to provide that veterans rated 30 percent or more disabled and Vietnam Era veterans may be appointed to positions up to GS-7 without competitive examinations. Following two years of satisfactory training and employment, the position converts to career or career conditional status. To qualify for appointment, disabled veterans need not fulfill any educational requirements, but non-disabled Vietnam Era veterans must not

have completed more than 14 years of formal education. This program has been very successful with more than 136,000 veterans achieving employment though the VRA process and the VFW applauds its extension as provided for in Public Law 97-72. However, the VFW believes a serious inequity exists. If an appointee is summarily removed from his position, which he has occupied for less than one year, he has no appeal rights to the Merit Systems Protection Board. We have asked the Office of Personnel Management to review the implementation of the VRA authority to rectify this inequity in regard to the appeal process and they have assured us they are reviewing this situation.

Two veteran related offices which also deserve discussion are the Office of Veteran Re-employment Rights (OVRR) and the Office of Federal Contract Compliance Program (OFCCP). Both, based on complaints we have received from the field, appear to take an inordinate amount of time in the processing of cases. While on the surface it appears sufficient staffing has been supplied, we have learned that people who should be working on veteran problems are actually being assigned elsewhere. In addition, we have complained to OVRR for using part-time students to fill in staffing gaps, yet this practice continues. It must be noted however that all is not of a negative nature. OVRR in particular, continues to publicize its successes and we, as a service organization, certainly appreciate these efforts and the cooperation received from that office.

Mr. Chairman, we would be remiss if we did not comment on a much discussed topic of late; Office of Management and Budget Circular A-76 (contracting out). As you know, the VA is a major employer of veterans and approximately 30,000 positions in the VA alone will be contracted out if A-76 is fully implemented. Keeping in mind that 65% of all VA employees are veterans, it is obvious that the employment of a large number of veterans may be terminated since there are no firm assurances that these highly skilled and dedicated employees will be retained by the contractors. By reducing the number of VA employees, the number of veterans in federal service will automatically be reduced. Needless to say, the VFW is strongly opposed to contracting out, particularly where providing high level health care for our nation's veterans is concerned.

Mr. Chairman, appended to my testimony, for your review, are a number of resolutions adopted at our most recent National Convention addressing the previously discussed issues. They are:

Resolution No. 613 -- "VRA Appeal Process"

Resolution No. 627 -- "Outstationing of Disabled Veteran Outreach Program Staff"

Resolution No. 651 -- "Maintain The 52 VES-DOL Secretarial Positions"

Resolution No. 710 -- "Funding For VES"

Resolution No. 784 -- "Preserve And Extend Veterans Preference"

This concludes my testimory. I will be happy to respond to any questions you may have.

Resolution No. 613

VRA APPEAL PROCESS

WHEREAS, Executive Order 11521, implemented the Veterans Readjustment Appointment Program for the purpose of easing the transition of Vietnam-era veterans into civilian life; and

WHEREAS, Congress subsequently enacted Public Law 95-520 further liberalizing the program, to include expanding the eligibility criteria by removing the one-year time limit following military separation; and

WHEREAS, it has been the long-established policy of the Veterans of Foreign Wars to support and promote the Veterans Readjustment Appointment Authority; and

WHEREAS, at present if a Veteran's Readjustment Appointee is summarily removed from his position - which he has occupied for less than one year - that veteran has no recourse to the merit systems protection board; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we urge the Office of Personnel Management to review and reevaluate the implementation of the Veterans Readjustment Appointment Authority to rectify this blatant inequity in regard to the appeal process.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania August 14-20, 1981.

Resolution No. 613

Resolution No. 627

OUTSTATIONING OF DISABLED VETERAN OUTREACH PROGRAM STAFF

WHEREAS, the Disabled Veterans Outreach Program (DVOP) was initiated in 1977 as a temporary program, to address the unemployment problems of Vietnam-era veterans, particularly disabled, minority, and young veterans; and

WHEREAS, DVOP staff numbering approximately 2,000 disabled and Vietnam-era veterans were located in Job Service offices throughout the nation with principal duties of assisting in the placement of veterans; and

WHEREAS, DVOP after enjoying considerable success in placing disabled and Vietnam-era veterans in gainful employment was legislated to become a permanent program at approximately a 2016 position level; and

WHEREAS, Congress in mandating the program through Public Law 96-466 established a requirement that no more than three-fourths of the DVOP staff will be stationed in local employment service offices; and

WHEREAS, proposed budget reductions by the Department of Labor will abolish more than 5,000 positions in Job Service offices nationwide; and

WHEREAS, the Department of Labor proposes to absorb DVOP within the new position levels from Grants-to-States funds; and

WHEREAS, Public Law 96-466 also requires the outstationing of as many as 525 DVOP staff at Veterans Administration readjustment counseling centers, veterans assistance centers, and other sites; and

WHEREAS, the abolishment of more than 5,000 positions, the absorption of 2,000 DVOP positions, and the outstationing of another 525 positions will have a tremendously negative impact on the effectiveness of the Job Service to service veterans; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we go on record in support of legislation to amend Chapter 41, Title 38, United States Code, Section 2003A(b) (2) to eliminate the requirement that "no more than three-fourths of DVOP staff be stationed in local Employment Service offices" and substitute therefore language to the effect that "DVOP staff may be outstationed by State Employment Security Agencies on the basis of need after consultation with the State Director for Veterans Employment;" and

(Continued)

BE IT FURTHER RESOLVED, that we hereby go on record supporting the retention of the present Disabled Vietnam Era Veterans Outreach Program staff capable of performing the duties and responsibilities of the position; and

BE IT FURTHER RESOLVED, that we go on record to support legislation to amend the U.S. Department of Labor budget for Fiscal Year 1982 to authorize as a line item $50 million for the implementation and operation of DVOP; and

BE IT FURTHER RESOLVED, that this $50 million be over and above the Grants-to-States funds allocated to states for Fiscal Year 1982; and

BE IT FURTHER RESOLVED, that throughout the lifetime of the DVOP program separate funding be provided for its operation.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 627

Resolution No. 651

MAINTAIN THE 52 VES - DOL SECRETARIAL POSITIONS

WHEREAS, the Congress has enacted legislation for an effective Veterans Employment Service program within the Department of Labor; and

WHEREAS, Chapter 41, Title 38, U.S. Code provides for staffing of the Veterans Employment Service necessary to carry out the mandates of Congress; and

WHEREAS, recently there was a move within the Department of Labor to eliminate the 52 field secretarial positions (one for each State); after debate the Congress provided sufficient funds to continue the secretarial positions; and

WHEREAS, an attempt to eliminate the 52 secretarial positions by the Employment and Training Administration of the Department of Labor is again being made; and

WHEREAS, the State Directors of the Veterans Employment Service will not be able to carry out their responsibilities as provided by law without secretarial help; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that to prevent this secretarial staffing problem from re-occuring, that the wording of the statutory authority for the secretarial positions be amended under Section 2003, Chapter 41, Title 38, U.S. Code, to clearly indicate that the intent of Section 505 (amending Sect. 2003) is to mandate Federal Civil Service secretaries at the State Director level within the Veterans Employment Service.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 651

Resolution No. 710

FUNDING FOR VES

WHEREAS, the Veterans of Foreign Wars has traditionally supported the provisions of Title 38, United States Code (USC) mandating priority and preferential services in all State Employment Service manpower activities for veterans, particularly disabled veterans; and

WHEREAS, the Vietnam Era Veterans Readjustment Acts of 1972 and 1974 updated these benefits, with special emphasis directed toward disabled veterans and veterans of the Vietnam era, the spouse of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and to spouses of certain other eligible veterans (now termed "eligible persons"); and

WHEREAS, Public Law 93-508 of 1974 clarifies and strengthens Chapter 42 of Title 38, USC, insuring that affirmative action be taken by Federal Contractors to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era; and

WHEREAS, Title V of Public Law 96-466 further amends and strengthens Chapters 41, 42 and 43 of Title 38, USC, and appoints a full Assistant Secretary of Labor for Veterans' Employment to administer all DOL veteran-related programs and activities, including the functions of OVRR and those of OFCCP; and

WHEREAS, Title 38, USC, as amended, greatly expands the provision governing the operation of the Veterans Employment Service, adding legislatively-mandated full-time secretaries for the VES field staff, thereby demanding adequate manpower and funding therefor, as well as additional funds for the U.S. Department of Labor and the Employment Services throughout the country so as to enable the Veterans Employment Service to effectively carry out its added responsibilities; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we go on record as favoring adequate appropriations by the Congress to enable the Veterans Employment Service to provide preferential job counseling, training, and placement services for eligible veterans; and

BE IT FURTHER RESOLVED, that we petition the Congress of the United States to appropriate sufficient funds to these involved government agencies to insure that all of their legal responsibilities now imposed by Title 38, USC, as amended, are effectively discharged as intended by law.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 710

Resolution No. 784

PRESERVE AND EXTEND VETERANS PREFERENCE

WHEREAS, our federal government specially selected as mentally, morally and physically fit, certain members from its society, specially trained this group, subjected them to stringent rules and regulations, removed them from home, family and employment, asked of them a special sacrifice, required some of them to suffer wounds they will live with forever; and

WHEREAS, a grateful nation, through its representatives in the Congress of the United States has, in recognition of the special service and loss of employment opportunity while defending the country in time of need, extended a long history of employing the returning veterans by enacting the Veterans Preference Act as contained in Title 5, U.S.C., and

WHEREAS, the term "veteran" includes every category of society, sex, age, religion, ethnic group, race, and creed; and

WHEREAS, absence from the highly competitive job market due to military service creates an unfair and unequal burden on veterans in competing for employment with non-veteran peers upon completion of military service; and

WHEREAS, the veterans preference law accomplished the legislative purpose of honoring veterans and provides a small advantage to competing for federal jobs; and

WHEREAS, these are prominent groups and individuals in the United States today who ignore the employment disadvantages accrued by individuals due to military service, who blindly allege that veterans preference is "discriminatory," who ignore the many judicial determinations upholding veterans preference, who blatantly over emphasize the advantages of veterans preference though presumably aware of the fact that approximately 28 million veterans in our population have not chosen or have not been successful in obtaining a federal position; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that the President of the United States be informed that this organization deplores each and every attempt to degrade, dilute or modify the historical precedence of giving job eligibility preference to those who were taken from their communities to serve their country in time of war, and that the President and the Congress of the United States reject any and all proposed legislation that would reduce employment opportunities for veterans in the federal workforce.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 784

PREPARED STATEMENT OF GERARD N. BOLLER, CIVIL AERONAUTICS BOARD

Mr. Chairman and Members of the Subcommittee

Thank you for granting me the privilege of appearing. I am here to describe a situation which, if allowed to continue, will deny veterans the rights which they have been guaranteed in the Veterans Preference Act.

Under current law the Civil Aeronautics Board is scheduled to phase down and finally sunset on January 1, 1985. The Administration now proposes an early sunset by October 1, 1982 and the CAB proposes a date as late as October 1, 1983. Under both the current law, and the law as proposed for early sunset, some functions will be terminated and other transferred on the same date.

In 1979, in anticipation of the original sunset date, the CAB devised a plan for identifying employees who would be transferred to the Department of Transportation, or other agencies, in connection with surviving programs (principally international routes and rates, small communities, subsidized service, and antitrust jurisdiction) or be terminated along with programs that are being sunsetted.

The CAB's management assured employees that attrition through resignation and retirement would be sufficient for all, or almost all,

employees desiring transfer to be placed in transferred positions by 1985. The CAB now proposes to advance this plan to accommodate any early sunset date. The Board's Office of Human Resources estimates that 28 veterans are now in nontransferring jobs and, according to current OPM rules, will not be allowed to exercise their rights guaranteed in the Veterans Preference Act, to compete for the transferring positions. Since final sunset legislation may increase the number of terminating functions, 30 percent disabled veterans may be RIFed and the total number of RIF's may rise substantially.

This anomoly of denying veterans the right to compete for transferring jobs at the CAB exists because of circumstances that did not previously occur. Section 12 of the Veterans Preference Act gives veterans the right to compete for jobs when functions or agencies are transferred. However, at the time of writing this section, Congress did not anticipate that a situation would exist in which transfer and termination of functions would occur at the same time. In writing its rules governing the rights of veterans to compete for jobs in transferring situation, OPM relied on the letter, but not the spirit, of the Veterans Preference Act.

OPM's rules are designed to cover situations, discussed in section 12 of the VPA, in which the functions of an entire agency would be transferred or, only a function of an agency would be transferred but other functions would remain. The rules did not consider a situation, such as at the CAB, in which there is a simultaneous transfer and termination of functions. OPM argues that these rules are appropriate in all circumstances and conform to the Veterans Preference Act of 1944, as

amended by the Civil Service Reform Act of 1978. It is my understanding that lawyers could reasonably argue against OPM's interpretation of these laws.

Whether correct or not OPM's rules do not conform to the spirit of the Veterans Preference Act. The Congressional Record reports Congressman Staines, one of the authors of the act, in describing the preference given to veterans in transfer situations, as saying, "Section 12 provides for [a] procedure in any reduction in personnel in any civilian service in any Federal agency..." (underline added). Obviously it was the intent of Congress to give veterans the right to compete for jobs in all transferring situations. To deny job competition rights to CAB veterans, because Congress did not specifically cover all possible circumstances in writing this legislation, would be contrary to the spirit of the Veterans Preference Act.

I am not arguing that veterans should be given new rights in RIF situations--all that I ask is that their present rights be honored.

I stress that the case at the CAB may be precedent for what happens elsewhere in the government in this time of retrenchment.

Thank you

STATEMENT OF WILLIAM C. PLOWDEN, JR., ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

Mr. Chairman and members of the subcommittee, I am pleased to have the opportunity to appear before you this mornng to review veterans programs and activities within the Department of Labor. As you know, I have recently been confirmed as the new Assistant Secretary for Veterans' Employment.

In my testimony today, I wish to concentrate on those items of major concern to the Subcommittee which you mentioned in your letter of December 30, 1981, to Secretary Donovan.

Mr. Chairman, several of your questions concerned the organizational structure and roles and responsibilities of the Office of the Assistant Secretary for Veterans' Employment (ASVE). The task force mentioned in the April 2, 1981, hearings before your Subcommittee was chaired by the former Under Secretary and is no longer in existence. However, they did formulate several organizational options for the office of the AVSE. Those alternatives and others are being reviewed.

On December 15, 1981, Secretary Donovan signed Secretary's Order 5-81, which established the Office of the Assistant Secretary of Labor for Veteran's Employment as a separate office within the Department. I am at the same organization level as the other Assistant Secretaries of Labor and am the principal adviser to the Secretary on all matters affecting veterans, including related budget issues. The Veterans' Employment Service has also been transferred to my jurisdiction. Organizational alternatives are under consideration. I will keep the Committee advised of developments in this area.

In regard to your question about the current status of the 52 secretaries for our State Directors for Veterans' Employment, I am pleased to report those positions are in place and there are no plans to eliminate them.

Other questions concerned the Department's handling of veterans' affirmative action complaints under Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1972.

Since the consolidation of contract compliance responsibility in the Department of Labor in 1978, the Office of Federal Contract Compliance Programs (OFCCP) has included a review of the contractor's compliance with the nondiscrimination and affirmative action requirements for veterans as part of each compliance review which it conducts under the contract compliance program. In Fiscal Year 1980, OFCCP conducted over 2,600 compliance reviews. In Fiscal Year 1981, OFCCP carried out approximately 3,100 reviews.

You were particularly interested in the Tennessee-Tombigbee Waterway Project in relation to Department of Labor monitoring of Federal contractor compliance. During the past 14 months, OFCCP conducted 19 onsite compliance reviews of contractors working on the Tennessee-Tombigbee Water Project. All contractors reviewed were in compliance with the mandatory listing requirement. There were no deficiencies regarding the employment of disabled or Vietnam-era veterans

In addition to enforcing Section 402 through the compliance review process, the OFCCP also responds to affirmative action complaints from veterans under Section 402. In past years, OFCCP had had some difficulty resolving these complaints in a timely fashion. While this has led to a backlog of unresolved veterans' complaint cases, the situation is improving.

In Fiscal Year 1981, OFCCP received a total of 4,036 complaints and closed 3,974 complaints under the three contract compliance program components. Of the total complaints received, 527 were from veterans under Section 402. OFCCP was able to resolve 174 Section 402 complaints in Fiscal Year 1981 and administratively closed 201. While we had a backlog of 295 unresolved veterans complaints under Section 402 at the end of the Fiscal Year, we expect to reduce that number to 100 by fiscal year 1983.

More specific steps are also being taken to see that the backlog of complaint cases under Section 402 is reduced and that such a backlog does not develop in the future. As one example, OFCCP has moved in recent weeks to reduce some of the backlog of the 250 appeals cases sent to the Director under Section 402 and Section 503 of the Rehabilitation Act. Through improved internal processing procedures, this backlog has begun to subside and should be eliminated within the next few months.

In addition, a 5-year affirmative action plan for supply and service contractors was proposed in an August 25 regulatory proposal. The final format of this provision has not been finalized. Such a plan would create incentives to encourage compliance and to provide greater training benefits to protected group members, including veterans. This would mean approval for 5 years (instead of 1 year) those written Affirmative Action Programs which comply with the Regulations and which also in-

clude approved training programs. OFCCP would not conduct regular compliance reviews during this period.

Of course, OFCCP would retain jurisdiction to investigate complaints of individuals and would retain the authority to revoke the certification of any 5-year plan in the event of substantive breaches of Affirmative Action Programs. In addition, contractors would be obligated to report to OFCCP on an ongoing basis regarding any changes in Affirmative Action Programs or training programs.

Mr. Chairman, this Administration is committed to efficient and effective enforcement of Section 402 in order to enhance employment opportunities for Vietnam-era and disabled veterans and to ensure that covered veterans who have been victims of unlawful discrimination receive timely relief. In line with this commitment, OFCCP has slated increased enforcement efforts regarding the rights of veterans under Section 402, as well as of handicapped persons under Section 503 of the Rehabilitation Act. OFCCP expects to make these adjustments to its program plan in Fiscal Year 1982.

Another question inquired about the results of a study covering employment services to disabled veterans which was referred to in your April hearings. A little background information may be helpful. On June 30, 1980, a contract was awarded by the Employment and Training Administration to conduct a study of employment services for disabled veterans. The study was originally scheduled to be completed by November 30, 1981. Its major objectives were:

to determine the current employment needs and problems of young disabled veterans, particularly combat disabled veterans, and

to recommend changes in national employment programs that would improve the services provided to disabled veterans.

The study has not yet been completed.

One aspect of the study design was a survey of a sample of disabled veterans drawn from the Veterans Administration files. This survey was originally scheduled to begin in the fall of 1980 but was not actually started until the late spring of 1981. This late start was due to an unanticipated delay in obtaining the required clearance for the survey instrument. Therefore, an extension of the contract was granted with a completion date of April 30, 1982.

At the present time, all survey and field work has been completed and the contractor's staff is processing and analyzing the data from several components of the study. Current plans are to submit a draft report for review early in Calendar Year 1982 and to complete the final report on schedule.

I would now like to bring you up to date regarding the Disabled Veterans Outreach Program (DVOP), the Targeted Technical Assistance (TTA) Program, and the Targeted Jobs Tax Credit (TJTC) Program.

As you know, the Disabled Veterans Outreach Program was established in 1977 as a temporary program to reduce the high unemployment among disabled and Vietnam-era veterans. Funded from CETA Title III discretionary funds, the program was initially designed to hire disabled veterans to conduct an outreach activity to identify disabled veterans and help them return to the mainstream of the labor market.

On October 17, 1980, the Veterans Rehabilitation and Education Amendments of 1980 was signed into law as P.L. 96-466. The legislation authorized a permanent Disabled Veterans Outreach Program.

The Department of Labor, in its fiscal year 1982 budget submittal, required DVOP to be funded and operated within the Grants-to-States allocations to the State Employment Service Agencies (SESAs). The Employment and Training Administration has issued directives to the SESAs to implement the program.

Under the statute's formula there are required to be 2016 DVOP staff. At the present time there are approximately 500 staff vacancies nationwide. The statute also requires that at least 25 percent of the staff be outstationed. Approximately 20 percent of the outstationing has been completed. We are moving vigorously to fully implement the program.

The Targeted Technical Assistance (TTA) program was implemented in August of 1980, to provide assistance to CETA prime sponsors in developing specific programs to meet the employment and training needs of veterans. TTA was a spin off of the Veterans Outreach and Community Services (VOCS) project and was designed to assist CETA prime sponsors to utilize the experience and expertise of community-based veterans organizations to provide technical assistance in establishing local projects.

You may recall that the Subcommittee was informed during the April 2, 1981, hearings that TTA would not be continued due to recission of CETA Title VI funds

for public service employment. It should be pointed out that only one TTA project was funded.

The Targeted Jobs Tax Credit program, authorized by the Revenue Act of 1978, provided incentives for employers to hire certain target groups, including economically disadvantaged Vietnam-era veterans under 35 years of age, and disabled veterans.

The TJTC program, which was to expire on December 31, 1981, was extended through December 31, 1982, under the Economic Recovery Tax Act of 1981 (Public Law 97-34), signed by the President on August 13, 1981. Under the new law, the age limit of 35 for Vietnam-era veterans has been eliminated.

During Fiscal Year 1981, 733,672 vouchers were issued to eligible jobseekers, of whom 41,320 (6 percent) were economically disadvantaged Vietnam-era veterans. During the same period, 411,581 certifications were issued—16,112 (4 percent) for economically disadvantaged Vietnam-era veterans.

You have asked for the Administration's views on two bills, H.R. 4961 and H.R. 5209. In the first of these bills, H.R. 4961, Section 204, seeks to amend eligibility for Unemployment Compensation for ex-servicemembers by restoring eligibility to those ex-servicemembers who were excluded under the Omnibus Budget and Reconciliation Act of 1981. The Administration is opposed to this change in the requirements of the statute.

Mr. Chairman, you also requested the Administration's position on H.R. 5209, a bill to amend Title 38, U.S. Code, to provide that the period for which an employer is required to grant an employee who is a member of the National Guard or Reserves a leave of absence to perform required active duty for training is any period of up to twelve consecutive months. I am not able at this time to give you the Administration's position since the bill is currently being reviewed within this Department but a final position has not been developed and will require coordination with other interested Departments and agencies.

With regards to your question concerning unemployment data, on February 18, 1981, Commissioner Janet L. Norwood, Bureau of Labor Statistics (BLS), wrote to the Honorable G. V. Montgomery, Chairman of the House Committee on Veterans' Affairs. She advised him that the BLS does not have the necessary information to distinguish veterans who served in the Vietnam theater of operations from those who served elsewhere. Dr. Norwood has, however, recommended that the best way to obtain reliable data would be through special surveys such as the 1979 survey conducted by the Census Bureau for the Veterans' Administration. Such surveys would of course require the appropriation of additional resources. An identical letter was sent to the Chairman of the Senate Veterans' Affairs Committee. We submit a copy of the letter for the record.

Mr. Chairman, in response to your request, I would like to report that the Employment and Training Administration will publish a field directive by mid February to all Regional Administrators, concerning the extension of the G.I. Bill delimiting date for certain Vietnam-era veterans as enacted in Public Law 97-72. The Regional Administrators will be directed to advise all State Employment Service Administrators to identify potentially eligible Vietnam-era veterans who seek assistance. In addition, such veterans will be advised to contact the nearest Veterans Administration (VA) Office for more detailed information regarding eligibility for the extension.

Mr. Chairman, I would like to emphasize the fact that we continue to work closely with the VA in matters of mutual concern. In this regard, VA Administrator Nimmo has appointed me as the Department of Labor representative on the Veterans Advisory Committee on Rehabilitation and the VA Educational Assistance Advisory Committee. I also represent the Department on the Agent Orange Working Group.

That concludes my prepared statement. I will be happy to respond to any questions you may have.

Committee Questions Submitted to the Department of Labor

Question 1. The position of Regional Director of Veterans Employment for Federal Region IX has been vacant for some time. Information received by the Subcommittee indicates that it is the intention of the Department of Labor to leave this position unfilled for an indefinite time. Is this true? If not, when do you plan to fill this position?

Answer. It is true that it is our intention to leave the position of Regional Director for Veterans Employment for Region IX unfilled for an indefinite time. At the

present, you must realize, the Veterans' Employment Service's budget simply would not permit the filling of that position. As is described later in this latter, the agency faces a serious budget deficit for fiscal year 1982 due to the funding level imposed by the Continuing Resolution. This funding problem has necessitated our making a study of the entire agency structure to facilitate planning. At this time our plans are to first fill mandated positions, if and when our supplemental funding request for $1.0 million is approved and the funds are appropriated. Meanwhile we have temporarily detailed our Regional Director for Region X to handle IX as well.

Question 2. This is in reference to the affirmative action obligations of contractors for disabled and Vietnam Era veterans. Referring to a five year affirmative action plan for contractors as reported in the November-December, 1981, issue of "in the Mainstream", has this plan been shelved?

If so, are procedural changes being made and staff increased to expedite claims for veterans, which are referred to the Office of Federal Contracts Compliance?

Answer. The five-year affirmative action plan for supply and service contractors was proposed in an August 25 regulatory proposal. The final format of this provision has not been finalized. Such a plan would create incentives to encourage compliance and to provide greater training benefits to protected group members, including veterans. This would mean approval for five years (instead of one year) those written Affirmative Action Programs which comply with the Regulations and which also include approved training programs. OFCCP would not conduct regular compliance reviews during this period.

Of course, OFCCP would retain jurisdiction to investigate complaints of individuals and would retain the authority to revoke the certification of any five-year plan in the event of substantive breaches of Affirmative Action Programs. In addition, contractors would be obligated to report to OFCCP on an ongoing basis regarding any changes in Affirmative Action Programs or training programs.

This Administration is committed to efficient and effective enforcement of Section 402 in order to enhance employment opportunities for Vietnam-era and disabled veterans and to ensure that covered veterans who have been victims of unlawful discrimination receive timely relief. In line with this commitment, OFCCP has slated increased enforcement efforts regarding the rights of veterans under Section 402, as well as of handicapped persons under Section 503 of the Rehabilitation Act. OFCCP expects to make these adjustments to its program plan in Fiscal year 1982.

Question 3. Please describe in detail for the Subcommittee the jurisdiction, as defined by the Solicitor of the Department of Labor, regarding complaints filed by veterans against Federal contractors under Section 402 of Public Law 93-508.

Answer. I have enclosed a copy of a letter to Congressman Daschle from Ellen Shong, Director of the Office of Federal Contract Compliance Programs, which responds to this question.

FEBRUARY 2, 1982.

Hon. THOMAS A. DASCHLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DASCHLE: This is in response to your inquiry concerning whether the Office of Federal Contract Compliance Programs (OFCCP) has jurisdiction over a series of individual complaints filed with OFCCP under Sections 503 and 402 against the South Dakota Department of Labor (SD DOL).

As we understand the facts, the complainants either were or are employed by the Division of Job Service (DJS), SD DOL. The SD DOL has a contract exceeding $10,000 with the U.S. Department of Labor, Bureau of Labor Statistics. This contract was signed by the Deputy Secretary of SD DOL and all work is performed by the Reports and Analysis Division which reports to the Deputy Secretary. The DJS does not perform work on the contract, is not signatory to the contract, does not participate under the contract, is not responsible for the completion or quality of work performed pursuant to the contract, and has no other relationship to the contract.

The issue presented is whether OFCCP's regulations grant the agency jurisdication over complaints filed pursuant to § 402/503 by persons employed within the DJS. The relevant portions of the agency regulations are found at 41 CFR 60-250.3 (a)(4) and 41 CFR 60-741.3(a)(4) and provide:

"Contracts with State or local governments. The requirements of the affirmative action clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract or subcontract."

Our position is that in order to give meaning to the three terms as used in the regulation, we must give them separate meanings. The use of the three different terms was meant to narrow the jurisdiction of the statutes to the subdivision or unit of government (instrumentality) working on or under the contract. The DJS is a separate and distinct subdivision of the State not working on or under the contract and is, therefore, not covered by the two statutes in question.

We have concluded that the DJS is a "subdivision" of the State within the meaning of the pertinent regulations and, therefore, exempt from the jurisdictional reach of Sections 402 and 503. We have advised our regional office to dismiss the complaints and return all documents gathered during the investigation to the State of South Dakota.

Thank you for your interest in our programs.

Sincerely,

ELLEN M. SHONG, *Director.*

Question 4. The Veterans Administration, in response to a request from ACTION for assistance in funding the Vietnam Veterans Leadership Program, stated that the VA had no legal authority to transfer funds to ACTION. What is the opinion of the Solicitor of the Department of Labor regarding a request to transfer funds to ACTION?

In testimony on February 2, a Department of Labor representative stated that although no interagency agreement had been established with ACTION, DOL has provided extensive personnel assistance with regard to the Vietnam Veterans Leadership Program. What is the legal basis for furnishing personnel assistance to an independent agency?

Answer. You requested an opinion concerning whether or not the DOL has, or would have, the legal authority to transfer funds to ACTION. You further noted that the Veterans Administration had taken the position that it had no legal authority to make such a transfer. Section 686 of Title 31, U.S. Code, covers the issue of transfers of funds from one department or bureau to another. Paraphrased, the Code allows for such transfer(s) unless provisions of any other law(s) relating to working funds prohibit the transfer(s). The applicable provision of law in this case is Section 305 of the Comprehensive Employment and Training Act (CETA) Amendments of 1973, under which the Department receives working funds for veterans information and outreach programs. Since the goals of the Vietnam Veterans Leadership Program administered by ACTION are akin to the purposes set forth in Section 305 of CETA, it is our opinion that the DOL does have legal authority to transfer funds to ACTION.

The legal basis for furnishing a limited amount of personnel assistance to the ACTION agency is the mandate of Section 2002, Chapter 41, Title 38, U.S. Code; i.e., "to provide such veterans and persons the maximum of employment and training opportunities through existing programs, coordination and merger of programs and implementation of new programs."

Question 5. You indicated at your confirmation hearing on November 17, 1981, that you intended to reevaluate and establish the future direction of the Veterans Outreach and Public Information Program. Has the review of this program been completed? What decisions regarding this program have been reached? How much money was distributed for this program in fiscal years 1980 and 1981?

Answer. My review of our Veterans Outreach and Public Information Program has been completed. I support the goals of the existing programs which we are funding. The $1.3 million for fiscal year 1982 is distributed as follows:

	Thousands
American GI Forum	$350
Blinded Veterans Association	200
National Urban League	220
United Veterans Council of Philadelphia	150
United States Veterans Assistance Centers	300
$80,000 is presently unobligated	

In fiscal years 1980 and 1981 we were authorized $4.2 million and $2.6 million, respectively.

Future dollars will be committed to programs which include, but are not limited to:

(1) Programs of on-the-job training in which maximum effort will be made to coordinate such programs with benefits authorized under 38 USC 1787.

(2) Employability development programs which coordinate and cooperate with the Veterans Administration's programs of readjustment counseling pursuant to 38 USC 612A and veterans assistance offices established pursuant to 38 USC 242.

(3) Job placement programs which coordinate and cooperate with the Department of Labor's Disabled Veterans Outreach Program authorized under 38 USC 2003A.

(4) Programs directed to the unique needs of minority veterans.

(5) Demonstration programs in cooperation with the Department of Defense and the Veterans Administration to provide pre-separation counseling concerning opportunities in the civilian labor market and pre-separation job search assistance for individuals who decline to re-enlist.

Question 6. In its November 30, 1981, National Legislative News Bulletin, The American Legion expresses a harsh indictment of the Department of Labor. In the Legislative News Bulletin, it states that the Veterans Employment Service is "the dumping ground for every unwanted individual." It also states that in regard to employment and training opportunities, "the simple truth is that there is nothing for veterans." This is a serious charge made by a leading veterans organization. The record should show your response thereto. Would you furnish the Subcommittee you reaction to this?

Answer. I was very disappointed when I read the article you mention, and do not feel that it represents the views of The American Legion. The Congress realized the importance of veterans' employment programs and created the position which I now hold. I, too, realize that employment and training opportunities for veterans is as important to our national defense as any new weapons system. Because of that belief, I intend to employ only those individuals who are of a top quality and can indeed provide the very best service to our veteran community. I intend to review all existing programs for veterans in the Labor Department to determine if they indeed are providing the services that they should and to propose new responses to meet the veterans unemployment problem. I know that with the support of the Administration, the Congress and the veterans organizations we can work together to accomplish meaningful results.

Question 7. Will there be additional costs to reinstate personnel separated prior to the Administration's request for supplemental funding for fiscal year 1982 for the Department of Labor? If so, how much?

Answer. You asked if there will "be additional costs to reinstate personnel separated prior to the Administration's request for supplemental funding for fiscal year 1982 for the Department of Labor." Since we are not sure as to the exact focus of this question, we will try to cover both the VES' and State Job Service agencies' situations in response.

No staff positions in the Verterans' Employment Service were eliminated due to the reduced funding level imposed by the current Continuing Resolution, so there are no personnel to be reinstated. However, a supplemental appropriation for fiscal year 1982 in the amount of $1 million has been requested. That funding would allow the filling of 23 vacancies, of which 21 are mandated by legislation.

Personnel were separated from the State Employment Service agencies prior to the approval of the supplemental appropriation of $210.3 million, some of whom were experienced local veterans employment representatives (LVERs) and Disabled Veterans Outreach Program (DVOP) staff. The supplemental funding is not sufficient for the State agencies to return to the pre-reduction level of approximately 80,000 staff nationwide, so some of those veterans' specialists will be reinstated, but not nearly all. While we do not have exact figures, there should be little "additional cost" to reinstate separated personnel since most State agencies will merely "recall" personnel according to their own merit staffing rules.

Question 8. Section 2007(a)(2) of Title 38, U.S. Code, requires the Secretary of Labor to establish administrative controls to determine whether or not the employment service agencies in each State have committed the necessary staff to ensure that the provisions of Chapter 41 are carried out, and to arrange for necessary corrective actions where staff resources have been determined to be inadequate.

Do you consider the current staffing levels adequate, given the recent budget cuts and record high Vietnam veterans unemployment rate? At the current staffing levels, can the mandates of Chapter 41 be accomplished? If not, what actions would you suggest the Secretary of Labor take?

Answer. The current staffing levels are adequate to insure that the mandates of Chapter 41 are accomplished. As you are aware, the formula for DVOP staffing levels is established by law and for Local Veterans Employment Representatives (LVERs) by regulation. For this reason, while the employment service may be required to reduce staff, they must maintain required staffing levels of DVOP and LVERS.

Question 9. Please list, by state, the total veteran population, the number of assistant veterans' employment representative positions authorized in each state, the numbers currently filled, and the number provided for using the "250,000 veteran population" formula in Title 38 U.S. Code 2003.

Answer. The information requested is enclosed.

Question 10. What amendments to the Interagency Agreement of Understanding with the Veterans Administration have you initiated or do you intend to initiate? What new interagency initiatives would you like to see developed?

Answer. Shortly after I was confirmed, I discovered that the Interagency Agreement of Understanding between the Department of Labor and the Veterans Administration not only needed amending but was incomplete. Last month I met with the Deputy Administrator, Charles Hagel, to initiate negotiations which will both complete the agreement and amend existing sections to reflect legislation passed since the Agreement was first signed late in 1979. The new agreement will contain sections on veterans' reemployment rights, affirmative action for disabled and Vietnam-era veterans, revised language on cooperation at the national level, and the outstationing of Disabled Veterans Outreach Program (DVOP) personnel.

ESTIMATED NUMBER OF VETERANS AND OTHER ELIGIBLES, BY STATE, SEPT. 30, 1981 [1]

State	Total veterans	Other eligibles [2]	Total veterans and eligibles	ASDVE's provided by formula [3]	ASDVE's authorized by DOL [4]	ASDVE's on board
Alabama	422,000	6,357	428,357	1	1	1
Alaska	39,000	219	39,219	0	0	0
Arizona	347,000	5,399	352,399	1	1	1
Arkansas	277,000	4,928	281,028	1	1	0
California	3,348,000	34,202	3,382,202	13	13	12
Colorado	382,000	4,721	386,721	1	1	1
Connecticut	463,000	2,987	465,987	1	1	1
Delaware	78,000	723	78,723	0	0	0
District of Columbia	96,000	1,598	97,598	0	0	0
Florida	1,397,000	23,038	1,420,038	5	5	4
Georgia	641,000	10,341	651,341	2	2	2
Hawaii	92,000	1,130	93,130	0	0	0
Idaho	105,000	962	105,962	0	0	0
Illinois	1,519,000	7,492	1,526,492	6	6	6
Indiana	725,000	4,805	729,805	2	2	2
Iowa	378,000	2,631	380,631	1	1	1
Kansas	311,000	2,946	313,946	1	1	0
Kentucky	412,000	5,059	417,059	1	1	1
Louisiana	447,000	5,434	452,435	1	2	2
Maine	156,000	1,873	157,873	0	0	0
Maryland	629,000	6,067	635,067	2	2	1
Massachusetts	871,000	9,844	880,844	3	3	3
Michigan	1,180,000	8,034	1,188,034	4	5	5
Minnesota	560,000	3,071	563,971	2	2	2
Mississippi	240,000	4,483	244,483	0	1	1
Missouri	708,000	5,035	713,935	2	2	2
Montana	98,000	817	98,817	0	0	0
Nebraska	203,000	1,839	204,839	0	0	0
Nevada	97,000	1,186	98,186	0	0	0
New Hampshire	125,000	1,157	126,457	0	0	0
New Jersey	1,102,000	7,496	1,109,496	4	4	4
New Mexico	137,000	2,539	139,539	0	0	0
New York	2,422,000	18,710	2,440,710	9	9	9
North Carolina	618,000	9,019	627,019	2	2	1
North Dakota	58,000	411	58,411	0	0	0
Ohio	1,463,000	10,478	1,473,478	5	5	5
Oklahoma	417,000	6,044	423,044	1	1	1
Oregon	393,000	3,216	396,216	1	1	1
Pennsylvania	1,729,000	14,142	1,743,142	6	8	8
Rhode Island	150,000	1,665	151,665	0	0	0
South Carolina	337,000	4,896	341,896	1	1	1
South Dakota	72,000	750	72,750	0	0	0
Tennessee	541,000	6,496	547,496	2	2	1

ESTIMATED NUMBER OF VETERANS AND OTHER ELIGIBLES, BY STATE, SEPT. 30, 1981 [1]—Continued

State	Total veterans	Other eligibles [2]	Total veterans and eligibles	ASDVE's provided by formula [3]	ASDVE's authorized by DOL [4]	ASDVE's on board
Texas	1,673,000	25,326	1,698,326	6	6	5
Utah	155,000	1,194	156,194	0	0	0
Vermont	64,000	798	64,798	0	0	0
Virginia	664,000	10,269	674,269	2	2	2
Washington	617,000	6,462	623,462	2	2	2
West Virginia	233,000	2,704	235,704	0	0	0
Wisconsin	593,000	4,123	597,123	2	2	1
Wyoming	45,000	439	45,439	0	0	0
Puerto Rico	181,000	4,315	185,315	0	0	0

[1] Source for these data is Veterans' Administration, Veteran Population, September 30, 1981.
[2] "Other eligibles" include spouses of veterans who died of a service-connected disability and spouses of totally disabled veterans. (VA, June 1981.)
[3] 38 U.S. Code requires appointment of 1 ASDVE for each 250,000 veterans and other eligibles.
[4] DOL may assign additional staff to the minimum required.

U.S. DEPARTMENT OF LABOR,
Employment and Training Administration,
Washington, D.C., February 12, 1982.

Directive: Field Memorandum No. 35–82—Change 2.
To: All Regional Administrators.
From: T. James Walker, Administrator, Administration and Management.
Subject: Revised fiscal year 1982 grants to States allocations.

1. PURPOSE

a. To revise the fiscal year 1982 Grants to States allocation based upon the fiscal year 1982 Supplemental Budget Appropriations; and
b. To issue planning instructions for SESAs in revising their fiscal year 1982 PBP.

2. REFERENCES

FM–180–81; 211–81; 255–81; 35–82; 35–82, Change 1; 38–82; 44–82; GAL 10–82; ET Handbook No. 336; and ET Handbook No. 336, Change 1.

3. BACKGROUND

a. Since FM 35–82 and FM 35–82, change 1, were issued, Congress passed a fiscal year 1982 Supplemental Appropriation request totalling $2,293,490,000 for the Department of Labor. The Supplemental includes:
(1) $1,950,000,000 to permit the general fund of treasury to make advances to the unemployment trust fund to provide resources needed for EB and loans;
(2) $133,000,000 to cover higher costs of processing and paying increased UI claims workloads; and
(3) $210,490,000 to restore financing for ES staff needed to find jobs and administer the worktest for UI claimants.
b. Revised allocations are being issued on the assumption the President will sign the Bill; therefore these levels should be considered as planning targets until this Bill is signed into law.

4. FISCAL YEAR 1982 REVISED TARGET ALLOCATIONS

The Attachment to this FM shows revised target allocations for ES, LMI, AS&T/NPS. Policies and guidelines in FM 35–82 and FM 35–82 Change 1 remain in effect except for certain allocation methodologies, program modifications, and PBP instructions described below.
Information that apply to all programs are:

a. Fiscal year salary rates

These rates were revised to show the latest enacted pay raise information. Any salary and law changes, which have been received as RFOP changes or funding requests are included in these revised rates. These rates are final and will not be changed, unless subsequent enacted State legislation changes the rates; in this case, normal RFOP request procedures should be used to obtain salary and law funds.

b. Regional Financial Operating Plan (RFOP's)

The RFOPs will not show the revised allocations until the ES/UI split of the AS&T/NPS allocations are determined. Regions should provide this information to the National Office by February 26, 1982, so the RFOP can be adjusted to reflect actual levels. Any RFOP changes issued before this reallocation for Grants to States activities, except salary and law changes, remain valid and will be part of the revised RFOP levels.

c. Normal Budgetary Adjustment Policy

The policy contained in FM 44-82 and GAL 10-82 remain in effect.

5. SPECIFIC PROGRAM COMPONENT AREAS

a. Employment Service

(1) *Reallocation Methodology.*—ES resources for the following three areas are restored to the initial staffyear and dollar levels (adjusted for previously approved salary and benefit increase) as in the initial fiscal year 1982 allocation (See FM 255-82):

ES Base,
ES Share of AS&T,
ES Share of Non-Personal Service.

The level of ES Special Project funding remains as shown in basic FM 35-82 except that the North Carolina Occupational Analysis Field Center (OAFC) will continue to operate at one-half of the initial fiscal year 1982 level. All other OAFCs will be closed and a total of 51 test development staffyears will be phased-out. Costs for the orderly phase-out of these activities by the end of the second quarter are included in the reallocation.

The Labor Market Information program is being increased by 100 staffyears from the Continuing Resolution level of 500 to 600. The net effect, however, is a reduction of 167 staffyears from the initial fiscal year 1982 level.

(2) *Disabled Veterans Outreach Program (DVOP).*—As shown in FM 35-82, this program must continue according to the formula allocation specified in Public Law 96-466 within the revised ES Base Allocation.

(3) *Other ES Program Areas.*—In the initial fiscal year 1982 allocation, previously earmarked staffyears for labor certification, agricultural recruitment, and MSFW Outreach activities were folded into the base ES allocation with the explicit understanding that these activities will continue. This was done to provide flexibility to SESAs in managing a reduced resource level. However, some States have shown reluctance to conduct these activities without specifically earmarked funds. For these activities, States should be informed that ETA reserves the right to withdraw staffyears from the base and to reallocate them as specially earmarked resources, should the need arise.

With specific reference to labor certification activities, the Senate report accompanying the Labor, Health and Human Services appropriation provides for funding labor certification activities within the Grants-to-States appropriation.

(4) *PBP Instructions.*—ES Program and Budget Planning (PBP) Guidelines for fiscal year 1982 issued in ET Handbook No. 336, and ET Handbook No. 336, Change 1, are being reinstated as operating instructions/guidelines governing fiscal year 1982 ES operations. All SESAs should review the original fiscal year 1982 approved annual plans, in light of disruptions resulting from changes in funding levels. If changes to the approved SESA/ES annual plan are substantial, descriptions of changes should be submitted. Placement targets for total individuals placed, placement transactions, and eligible claimants should be renegotiated to reflect current basic economic assumptions and funding levels, and reported to the National Office, Attn: TGP, by March 17, 1982.

In reviewing placement performance plans, SESAs should consider maintaining a vigorous Employer Services (Job Promotion) Program directed to employers with the greatest hiring potential, as well as linkages and coordination with the greatest hiring potential, as well as linkages and coordination with PICs, JSECs, and the use of the TJTC Program.

The Disabled Veterans Outreach Program assurances of compliance must be incorporated into the SESA annual plan by submitting the signature page, attached to FM 38-82.

Employment Service Worksheets (ES-1, ES-2, ES-3, ES-4, and ES-5) are to be revised and resubmitted per the instructions of this FM.

b. Unemployment Insurance

The UI allocations will not change from levels included in FM 255-81 (UI Special Projects) and FM 35-82. However, UI worksheets UI-2, UI-3, and UI-4 must be resubmitted by March 26, 1982.

c. AS&T/NPS

(1) The AS&T/NPS allocations are shown in the attachment and are restored to the levels issued in FM 255-81. Minor adjustments were made in some states due to salary rate changes.

(2) The levels are provided in total to give SESAs the flexibility to allocate resources where necessary. Regions should provide the National Office the ES/UI break by February 26, 1982.

(3) *PBP—Instructions.*—For the PBP, SESAs will only need to resubmit worksheets FP-3 and FP-4. However, the FP-4 must be sent separately from the PBP submittal so that Agency Limitations can be issued to reflect the new levels. ROs will send copies of each SESA's FP-4 to the National Office, Attn: TGP, by March 5, 1982.

c. LMI

(1) As indicated above, the Labor Market Information program is being increased by 100 staffyears. Also, the CETA/LMI was restored to the intial fiscal year 1982 level as shown in FM 255-81. The LMI allocation methodology remains as stated in FM 35-82.

(2) The additional LMI resources should be channeled into the following major activites:

a. Preparation of job search materials—for ES distribution—to assist the unemployed in locating available jobs;

b. Development of Job Service marketing plans to help identify local industries with hiring potential; and

c. Restoration of Statewide Annual Planning Information reports for all states.

(3) *PBP Instructions.*—Each SESA should submit revised LMI-1 and LMI-2 worksheets which reflect the above instructions and those in FM 38-82.

6. SUBMITTAL AND REVIEW OF STATE AGENCY PLANS

Revised State Agency Program and Budget Plans will be prepared according to the attached guideline using planning levels provided by the RO. Comments from the State Director for Veterans Employment (SDVE) should be submitted with the revised plan.

SESAs will send the original and two copies of the revised plan to the Regional Office by March 17, 1982. The submittal should be assembled in a loose leaf format, i.e., 3 hole punched for notebooks with tabs identifying major sections and must include a new annual plan signature page. SESAs should send PBP revisions to State Director for Veteran Employment (SDVE), Governors, and A-95 Clearninghouses for their information.

7. ACTION REQUIRED

RAs are requested to:

a. Provide the above information and attached allocations to appropriate regional staff and SESAs;

b. Immediately telephone allocation figures to their respective States and follow-up with written confirmation;

c. Send to the National Office, Attention: TGP, by Feb. 26, 1982 the ES and UI split for AS&T and NPS by State, both dollars, and staffyears;

d. Send one copy of each SESA FP-4 to the National Office Attention: TGP, by March 5, 1982;

e. Work with SESAs to develop revised PBP according to the above instructions;

f. Submit SESA placement targets for Individuals Placed, Placement Transactions, and Eligible Claimants to National Office, Attention: TGP, by March 17, 1982;

g. Send approved revised PBPs to the National Office, Attention: TGP by March 26, 1982.

8. INQUIRIES

Direct questions to:
Pam Nowell/Ron Bachman, 8-376-6826/8-376-6962, General.
Irv Rose, 8-376-6661, ES.
Shirley Chambers, 8-376-6299, UI.
Alan Moss, 8-376-6538, LMI.
Joe Nelson/Jess Aragon, 8-376-6396, AS&T/NPS.

9. ATTACHMENTS (RAS ONLY)

Allocations:

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FISCAL YEAR 1982
EMPLOYMENT SERVICE ALLOCATIONS

	Base		LMI		LMI/BLS		Special projects		Total	
	Positions	Dollars	Positions	Dollars	Positions	Dollars	Positions	Dollars	Positions	Dollars
Region I	1,174.2	22,782,737	51.3	992,503	15.5	300,073	8.0	151,790	1,249.0	24,227,103
Connecticut	294.7	6,651,084	11.2	252,773	3.6	81,248	1.5	33,854	311.0	7,018,959
Maine	110.9	2,027,252	8.1	148,068	2.0	36,560	.5	9,140	121.5	2,221,020
Massachusetts	527.8	9,298,780	18.2	320,648	5.0	88,090	4.5	79,281	555.5	9,786,799
New Hampshire	74.6	1,274,093	4.6	78,563	1.9	32,450	.5	8,540	81.6	1,393,646
Rhode Island	109.7	2,394,861	4.3	93,873	.8	17,465	.5	10,916	115.3	2,517,115
Vermont	56.5	1,136,667	4.9	98,578	2.2	44,260	.5	10,059	64.1	1,289,564
Region II	2,768.1	60,255,696	64.3	1,446,973	28.0	632,865	24.5	528,624	2,884.9	62,804,158
New Jersey	568.4	11,843,751	20.3	422,991	7.5	156,278	5.5	114,604	601.7	12,537,624
New York	1,895.2	44,624,379	36.1	850.011	19.5	459,147	16.2	381,445	1,967.0	46,314,982
Puerto Rico	262.3	3,051,598	4.1	107,699	0	0	2.8	32,574	269.2	3,131,872
Virgin Islands	42.2	735,968	3.8	66,272	1.0	17,440	0	0	47.0	819,680
Region III	2,055.8	47,442,651	65.6	1,509,982	19.8	473,408	16.5	389,291	2,157.7	49,815,332
Delaware	50.6	1,126,255	4.5	100,161	1.0	22,258	.5	11,129	56.6	1,259,803
District of Columbia	153.4	3,466,073	6.5	146,868	1.3	29,373	2.5	56,488	163.7	3,698,802
Maryland	273.8	5,496,261	7.5	150,555	3.8	70,252	.5	10,037	285.3	5,727,112
Pennsylvania	1,033.5	27,073,566	30.6	801,598	12.0	314,352	9.0	235,764	1,085.1	28,425,280
Virginia	368.3	7,006,171	9.5	180,719	0	0	3.5	66,581	381.3	7,253,471
West Virginia	176.2	3,274,325	7.0	130,081	2.0	37,166	.5	9,292	185.7	3,450,864
Region IV	3,376.9	63,797,626	94.4	1,781,277	24.5	454,745	56.1	1,106,189	3,551.8	67,139,837
Alabama	357.7	7,119,303	11.4	226,894	4.0	79,612	1.5	29,855	374.6	7,455,664
Florida	707.2	12,731,722	20.1	361,860	5.6	100,817	2.8	50,408	735.7	13,244,807
Georgia	433.3	9,040,804	13.1	273,331	3.9	81,373	2.0	41,730	452.3	9,437,238
Kentucky	301.3	5,189,290	8.6	148,118	2.5	43,058	3.0	51,669	315.4	5,432,135
Mississippi	345.1	6,795,019	7.0	137,830	1.9	37,411	1.5	29,535	355.5	6,999,795
North Carolina	530.4	10,802,126	14.0	285,124	0	0	38.8	790,201	583.2	11,877,451
South Carolina	307.9	5,965,870	9.1	176,322	2.5	48,440	3.0	58,128	322.5	6,248,760
Tennessee	394.0	6,153,492	11.0	171,798	4.1	64,084	3.5	54,663	412.6	6,443,987
Region V	3,508.0	75,637,863	108.5	2,353,403	40.2	882,617	32.7	794,757	3,689.4	79,668,640
Illinois	857.7	18,992,909	23.5	520,384	9.3	205,939	5.5	121,792	896.0	19,841,024
Indiana	493.2	8,842,583	17.9	320,929	4.9	87,852	1.5	26,894	517.5	9,278,258
Michigan	671.3	17,986,141	22.5	602,843	10.0	267,930	19.1	511,746	722.9	19,368,660

Minnesota	406.2	8,774,326	11.7	252,732	3.8	82,084	3.1	66,963	424.8	9,176,105
Ohio	704.4	12,761,615	17.6	318,852	7.7	139,501	2.5	45,293	732.2	13,266,268
Wisconsin	375.2	8,280,289	15.3	337,656	4.5	99,311	1.0	22,069	396.0	8,739,325
Region VI	2,678.5	63,429,252	62.5	1,478,755	18.6	437,324	22.8	536,427	2,782.4	65,881,758
Arkansas	327.0	6,041,979	7.0	129,339	2.0	36,954	1.5	27,716	337.5	6,235,988
Louisiana	335.2	7,668,035	11.1	253,924	3.0	68,628	2.0	45,752	351.3	8,036,339
New Mexico	173.9	3,678,681	5.0	105,770	1.4	29,616	3.0	63,462	183.3	3,877,529
Oklahoma	418.7	11,612,644	10.4	288,444	2.0	55,470	1.5	41,603	432.6	11,998,161
Texas	1,423.7	34,427,913	29.0	701,278	10.2	246,656	14.8	357,894	1,477.7	35,733,741
Region VII	1,315.9	26,924,888	32.6	673,443	13.2	270,724	8.5	166,761	1,370.2	28,035,819
Iowa	380.6	7,929,040	9.9	206,247	3.6	74,999	.5	10,417	394.6	8,220,703
Kansas	239.5	4,669,532	7.0	136,479	2.6	50,692	.5	9,749	249.6	4,866,452
Missouri	513.8	9,859,308	10.2	195,728	5.0	95,945	7.0	134,323	536.0	10,285,304
Nebraska	182.0	4,467,008	5.5	134,992	2.0	49,088	.5	12,272	190.0	4,663,360
Region VIII	999.8	25,124,208	33.2	826,517	9.1	228,962	23.0	641,540	1,065.1	26,821,227
Colorado	272.7	6,834,135	9.5	238,080	2.5	62,653	4.5	112,775	289.2	7,247,648
Montana	154.8	3,421,080	4.5	99,450	1.0	22,100	.5	11,050	160.8	3,553,680
North Dakota	122.1	3,517,090	4.8	138,264	1.3	37,446	1.0	28,805	129.2	3,721,605
South Dakota	135.4	2,643,550	4.8	93,715	1.3	25,381	.5	9,762	142.0	2,772,408
Utah	221.5	6,466,914	5.1	148,900	1.8	52,553	16.0	467,136	244.4	7,135,503
Wyoming	93.3	2,241,439	4.5	108,108	1.2	28,829	.5	12,012	99.5	2,390,388
Region IX	2,598.2	70,161,112	60.9	1,630,708	25.1	673,794	34.2	931,482	2,718.4	73,397,096
Arizona	305.8	6,661,547	.4	139,418	2.6	56,638	4.0	87,136	318.8	6,944,739
California	2,069.6	58,101,950	44.7	1,254,908	19.5	547,443	29.2	819,761	2,163.0	60,724,062
Hawaii	91.6	2,136,936	4.8	111,979	1.2	27,995	.5	11,665	98.1	2,288,575
Nevada	117.7	3,041,250	4.5	116,276	1.3	33,591	.5	12,920	124.0	3,204,037
Guam	13.5	219,429	.5	8,127	.5	8,127	0	0	14.5	235,683
Region X	1,039.6	26,870,735	26.8	723,995	9.5	252,891	14.7	357,237	1,090.6	28,204,858
Alaska	119.7	4,470,196	5.0	186,725	1.6	59,752	.5	18,673	126.8	4,735,346
Idaho	148.1	4,125,177	4.8	133,699	1.4	38,996	.5	13,927	154.8	4,311,799
Oregon	320.8	7,740,904	8.4	202,392	3.0	72,390	6.0	144,780	338.2	8,160,766
Washington	451.0	10,534,458	8.6	200,879	3.5	81,753	7.7	179,857	470.8	10,996,947
National total	21,515.0	482,426,768	600.0	12,417,559	203.5	4,607,403	241.0	5,604,098	22,559.5	505,995,828

Note: Reflects all documented and approved salary and benefit increases.

FISCAL YEAR 1982 ES SPECIAL PROJECTS ANALYSIS—POSITIONS

	OA field centers		Test development		Monitor Advocate	Redwood	Total	
	Regular	Phaseout	Regular	Phaseout			Positions	Dollars
Region I	0	1.5	2.0	1.5	3.0	0	8.0	151,790
Connecticut	0	0	0	1.0	.5	0	1.5	33,854
Maine	0	0	0	0	.5	0	.5	9,140
Massachusetts	0	1.5	2.0	.5	.5	0	4.5	79,281
New Hampshire	0	0	0	0	.5	0	.5	8,540
Rhode Island	0	0	0	0	.5	0	.5	10,916
Vermont	0	0	0	0	.5	0	.5	10,059
Region II	0	6.5	10.0	3.0	5.0	0	24.5	528,624
New Jersey	0	0	4.0	1.0	.5	0	5.5	114,604
New York	0	6.5	6.0	2.0	1.7	0	16.2	381,445
Puerto Rico	0	0	0	0	2.8	0	2.8	32,575
Virgin Islands	0	0	0	0	0	0	0	0
Region III	0	1.5	9.0	2.5	3.5	0	16.5	389,291
Delaware	0	0	.0	0	.5	0	.5	11,129
District of Columbia	0	0	2.0	0	.5	0	2.5	56,488
Maryland	0	0	0	0	.5	0	.5	10,037
Pennsylvania	0	1.5	5.0	2.0	.5	0	9.0	235,764
Virginia	0	0	2.0	.5	1.0	0	3.5	66,581
West Virginia	0	0	0	0	.5	0	.5	9,292
Region IV	10	10	22.0	4.5	9.6	0	56.1	1,106,189
Alabama	0	0	0	1.0	.5	0	1.5	29,855
Florida	0	0	0	0	2.8	0	2.8	50,408
Georgia	0	0	0	1.0	1.0	0	2.0	41,730
Kentucky	0	0	2.0	.5	.5	0	3.0	51,669
Mississippi	0	0	0	1.0	.5	0	1.5	29,535
North Carolina	10	10	16.0	0	2.8	0	38.8	790,201
South Carolina	0	0	2.0	0	1.0	0	3.0	58,128
Tennessee	0	0	2.0	1.0	.5	0	3.5	54,663
Region V	0	4	16.0	5.5	7.2	0	32.7	794,757
Illinois	0	0	3.0	1.5	1.0	0	5.5	121,792
Indiana	0	0	0	1.0	.5	0	1.5	26,894
Michigan	0	4	13.0	0	2.1	0	19.1	511,746
Minnesota	0	0	0	1.5	1.6	0	3.1	66,963
Ohio	0	0	0	1.5	1.0	0	2.5	45,293
Wisconsin	0	0	0	0	1.0	0	1.0	22,069
Region VI	0	4	7.0	4.5	7.3	0	22.8	536,427
Arkansas	0	0	0	1.0	.5	0	1.5	27,716
Louisiana	0	0	0	1.5	.5	0	2.0	45,752
New Mexico	0	0	2.0	0	1.0	0	3.0	63,462
Oklahoma	0	0	0	1.0	.5	0	1.5	41,603
Texas	0	4	5.0	1.0	4.8	0	14.8	357,894
Region VII	0	5.5	0	1.0	2.0	0	8.5	166,761
Iowa	0	0	0	0	.5	0	.5	10,417
Kansas	0	0	0	0	.5	0	.5	9,749
Missouri	0	5.5	0	1.0	.5	0	7.0	134,323
Nebraska	0	0	0	0	.5	0	.5	12,272
Region VIII	0	2.5	15.0	1.5	4.0	0	23.0	641,540
Colorado	0	0	2.0	1.5	1.0	0	4.5	112,775
Montana	0	0	0	0	.5	0	.5	11,050
North Dakota	0	0	0	0	1.0	0	1.0	28,805

FISCAL YEAR 1982 ES SPECIAL PROJECTS ANALYSIS—POSITIONS—Continued

	OA field centers		Test development		Monitor Advocate	Redwood	Total	
	Regular	Phaseout	Regular	Phaseout			Positions	Dollars
South Dakota	0	0	0	0	.5	0	.5	9,762
Utah	0	2.5	13.0	0	.5	0	16.0	467,136
Wyoming	0	0	0	0	.5	0	.5	12,012
Region IX	0	6.0	14.0	1.5	10.7	2.0	34.2	931,482
Arizona	0	0	2.0	0	2.0	0	4.0	87,136
California	0	6.0	12.0	1.5	7.7	2.0	29.2	819,761
Hawaii	0	0	0	0	.5	0	.5	11,665
Nevada	0	0	0	0	.5	0	.5	12,920
Guam	0	0	0	0	0	0	0	0
Region X	0	5.0	5.0	0	4.7	0	14.7	357,237
Alaska	0	0	0	0	.5	0	.5	18,673
Idaho	0	0	0	0	.5	0	.5	13,927
Oregon	0	0	5.0	0	1.0	0	6.0	144,780
Washington	0	5.0	0	0	2.7	0	7.7	179,857
National total	10	46.5	100.0	25.5	57.0	0	241.0	5,604,098

Note: Reflects all documented and approved salary and benefit increases.

Fiscal year 1982 AS&T/NPS allocations

	Allocation
Region VII	$21,228,839
Iowa	5,587,992
Kansas	4,154,645
Missouri	8,052,513
Nebraska	3,433,689
Region VIII	19,533,441
Colorado	5,933,586
Montana	2,271,303
North Dakota	2,567,945
South Dakota	1,776,568
Utah	4,804,560
Wyoming	2,179,479
Region IX	63,827,207
Arizona	5,666,811
California	50,452,522
Hawaii	3,340,130
Nevada	4,322,823
Guam	44,921
Region X	25,665,651
Alaska	5,084,761
Idaho	3,290,916
Oregon	7,575,991
Washington	9,713,983
National total	423,313,978

Current fiscal year 1982 ES salary and benefit rates as of Feb. 12, 1982

Connecticut	$22,569
Maine	18,280
Massachusetts	17,618

Current fiscal year 1981 ES salary and benefit rates of Feb. 12, 1982—Cont.

	Allocation
New Hampshire	$17,079
Rhode Island	21,831
Vermont	20,118
New Jersey	20,837
New York	23,546
Puerto Rico	11,634
Virgin Islands	17,440
Delaware	22,258
District of Columbia	22,595
Maryland	20,074
Pennsylvania	26,196
Virginia	19,023
West Virginia	18,583
Alabama	19,903
Florida	18,003
Georgia	20,865
Kentucky	17,223
Mississippi	19,690
North Carolina	20,366
South Carolina	19,376
Tennessee	15,618
Illinois	22,144
Indiana	17,929
Michigan	26,793
Minnesota	21,601
Ohio	18,117
Wisconsin	22,069
Arkansas	18,477
Louisiana	22,876
New Mexico	21,154
Oklahoma	27,735
Texas	24,182
Iowa	20,833
Kansas	19,497
Missouri	19,189
Nebraska	24,544
Colorado	25,061
Montana	22,100
North Dakota	28,805
South Dakota	19,524
Utah	29,196
Wyoming	24,024
Arizona	21,784
California	28,074
Hawaii	23,329
Nevada	25,839
Guam	16,254
Alaska	37,345
Idaho	27,854
Oregon	24,130
Washington	23,358

Disabled Veterans Outreach Program (DVOP)

Question 1. Section 2003A(a)(1) requires the Secretary of Labor to ". . . make available to each state . . . such funds as may be necessary to support a disabled veterans outreach program . . ." Under Subsection (a)(3) the Secretary ". . . shall also make available to the states such funds . . . to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits."

Please supply the Subcommittee a breakdown by state of the dollar amount allocated to comply with subsections (a)(1) and (a)(3).

Answer. Enclosed is a State listing of approved "average" State Agency salary and benefit rates. These are the "average" cost per position and include administrative costs such as expenses for training, travel and supplies. Each State's Program and Budget Plan identifies the required number of DVOP staff including those to be outstationed. Since the DVOP personnel are included within the overall staffing

ceiling of the States, the total dollar allotment includes funds for the positions as well as the required funds for training, travel, supplies and fringe benefits.

Question 2. Please provide the Subcommittee with a breakdown, by State, of those states that have requested a determination under the provisions of Section 2003A(d) regarding the qualifications of DVOP Specialists by the Secretary and the disposition of those requests. That is, how many DVOP Specialists were found to be not qualified?

Answer. The enclosed General Administration Letter Number 18–81 and Changes 1 and 2 provide the States with the requirements of the legislation and guidelines by which to implement the program. You will note that the authority for making determinations on qualifications has been delegated to the States. This is in keeping with acceptable Federal-State procedures governed by merit system standards administered by the U.S. Office of Personnel Management. However, bed assured that we are carefully monitoring this particular phase of the program to insure a fair and proper transition.

Question 3. Section 2003A(a)(3) of Title 38 states that each disabled veterans' outreach program specialist shall be a veteran. Testimony before the Subcommittee on February 2, 1982, indicated that many DVOPs who are veterans have been bumped or RIFed and are being replaced by nonveterans. The Subcommittee feels that Title 38 clearly mandates that all DVOPs must be veterans. What is the Department of Labor's policy regarding the appointment of veterans as DVOPs? And the reappointment of RIF'ed DVOPs?

Answer. Department of Labor policy is that "all DVOP staff must be veterans" with appointment preference in the order provided for in Section 2003A(a)(2), Chapter 41, 38 USC. (See also General Administration Letter 18–81, dated April 10, 1981 (ETA)). We will continue to ensure that these provisions are fulfilled. Reappointments of RIF'ed DVOP personnel are currently being handled by the states according to their merit system rules. Of course, the states must comply with DVOP guidelines and cannot fill a DVOP position with a nonveteran. We will continue to carefully monitor this particular phase of the program to insure a fair and proper transition.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT AND TRAINING ADMINISTRATION,
Washington, D.C., April 10, 1981.

Directive: General administration letter No. 18–81.
To: All State employment security agencies.
From: Office of the Deputy Assistant Secretary, Roberts T. Jones, Administrator, Office of Management Assistance.
Subject: Implementation of Public Law 96–466, Veterans Rehabilitation and Education Amendments of 1980.

1. *Purpose.*—a. To provide a summary of applicable provisions of Public Law 96–466, Veterans' Rehabilitation and Education Amendments of 1980, and

b. To provide procedures for implementing provisions as they relate to the Disabled Veterans Outreach Program (DVOP) and changes in veterans' definitions.

2. *References.*—Public Law 96–466 (see attached excerpted Title V).

3. *Background.*—President Carter signed Public Law 96–466 on October 17, 1980, with an effective date of October 1, 1980. It revised the disabled veterans' vocational rehabilitation program under Chapters 31, 34, 35, and 36, and amended Chapters 41 and 42 of Title 38, U.S. Code, which apply to Department of Labor (DOL) veterans' employment and training activities and programs.

4. *Revisions and Amendments.*—Provisions affecting DOL include:

a. *Elevation of DASVE to Assistant Secretary.*—Section 504 amends Section 2002A of Chapter 41, Title 38, U.S. Code; it strikes out "Deputy" wherever it appears and states that references to the DASVE are deemed a reference to the Assistant Secretary in "any law, regulation or other document." It retains the Deputy position "as constituted the day before the date of enactment" until a person is appointed to and qualifies for the Assistant Secretary position.

b. *Clerical Support for Veterans' Employment.*—Section 505 amends Section 2003, Chapter 41, Title 38, U.S. Code; it adds legislatively-mandated full-time clerical support for the Veterans' Employment Service field staff at the level of State Director for Veterans' Employment.

c. *Permanent DVOP Program.*—Section 506 amends Chapter 41, Title 38, U.S. Code; it adds a new Section 2003A to establish a permanent, DOL-funded DVOP. Key areas in this new section affecting the DVOP include:

(1) Paragraph (a)(1); it states, "The Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as may be necessary to support a DVOP designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam-era." While the secretary is required to establish a permanent DVOP program, no specific funding provisions are included in P.L. 96–466.

(2) Paragraph (a)(2); it establishes a staffing formula of one DVOP specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in a State. This formula reflects Congressional intent to staff the DVOP at a national level of about 2,000 specialists. Under the legislation, all DVOP staff must be veterans with appointment preference given first to disabled Vietnam-era veterans, second to other disabled veterans, and finally to any veteran. Also, all DVOP staff must be paid "at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned." Objectives of the appointment preference and salary provisions must be achieved within the framework of the State's own merit system, classification and pay plan, and other applicable provisions. State ES agencies are subject to the Standards for a Merit System of Personnel Administration (5 CFR 900f) as administered by the U.S. Office of Personnel Management.

(3) Paragraph (a)(3); it provides for the support of reasonable expenses of DVOP staff for their training, travel, supplies and fringe benefits.

(4) Paragraph (a)(4); it states that DVOP staff are "in addition to and shall not supplant Local Veterans' Employment Representatives (LVERs).

(5) Paragraph (b)(1); it provides that DVOP staff "shall be assigned only those duties directly related to meeting the employment needs of eligible veterans" according to a priority order. First priority will be given to disabled veterans of the Vietnam era who participate in or who have completed a program of vocational rehabilitation under Chapter 31, Title 38, U.S. Code. Second priority will go to other disabled veterans with priorities as may be determined by the Secretary.

(6) Paragraph (b)(2); it states that no more than three-fourths of the DVOP staff may be stationed at local employment service offices in each State. Other DVOPs must be outstationed at VA readjustment and assistance centers and other sites deemed appropriate by the Secretary after consultation with the VA Administrator.

(7) Paragraph (c); it lists functions which the DVOP staff will perform. The functions are:

(a) Working with employers to develop jobs and job training opportunities;

(b) Promoting OJT and apprenticeship positions within VA programs;

(c) Providing outreach to priority veterans' categories working through community agencies and organizations;

(d) Assisting Community organizations and CETA prime sponsors in providing assistance to veterans;

(e) Assisting local employment service offices in carrying out their responsibilities;

(f) Developing linkages with other agencies to promote maximum employment opportunities for veterans; and

(g) Promoting entry-level and career job opportunities for veterans.

(8) Paragraph (d); it provides a "grandfather clause" in the law so that DVOP staff on board on the date of enactment (October 17, 1980) shall be appointed to positions in the permanent program, unless the Secretary for good cause determines the person is not qualified.

Under the merit system standards administered by the U.S. Office of Personnel Management, all States now have acceptable plans for determining minimum qualifications for positions in State ES agencies. Accordingly, determinations made by State merit system agency officials on qualifications will be acceptable to the Department of Labor, including eligibility for appointment of DVOP staff on board as of date of enactment.

(9) Paragraph (e); it provides that the new Assistant Secretary for Veterans' Employment shall administer the DVOP program.

Operational program responsibilities are expected to remain with the United States Employment Service, through Regional Offices and SESAs.

d. *Veterans' Definitions.*—Section 508 amends Section 2011, Chapter 42, Title 38, U.S. Code as follows:

(1) Paragraph (1) changes a definition under the veterans affirmative action provisions in Chapter 42 (those provisions establish the Federal Contractor Job Listing Program). The term "disabled veteran" was changed to "special disabled veteran" to conform with definitions in Chapter 41. The revised definition is:

"(1) The term 'special disabled veteran' means (a) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a dis-

ability rated at 30 percent or more or (b) a person who was discharged or released from active duty because of a service-connected disability."

(2) Paragraph (2)(A) revises the definition of "veteran of the Vietnam era" by deleting the 48-month requirement; paragraph (2)(B) adds a limiting date for that definition. This means that any eligible veteran (defined in subsection (4) below) who served between August 5, 1964, and May 7, 1975, will be classified as a veteran of the Vietnam era. However, for purposes of mandatory listing/affirmative action provisions of Chapter 42, Title 38, U.S. Code, this veteran category will not be used after December 31, 1991. The revised definition is:

"(2)(A) Subject to subparagraph (B) of this paragraph, the term 'veteran of the Vietnam era' means an eligible veteran whose service was during any part of the Vietnam era."

"(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991."

(3) Paragraph (1) is new to Title 38 and is titled "disabled veteran" with the same meaning that it was in the Employment Security Automated Reporting System (ESARS). This category includes all veterans with compensable disabilities regardless of the percentage of disability from 0 percent through 100% ratings. As a result, special "disabled veteran" can be considered as a sub-group of "disabled veteran." The definition is:

"(3) The term 'disabled veteran' means (a) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (b) a person who was discharged or released from active duty because of a service-connected disability."

5. *Procedures.*—

a. *Disabled Veterans Outreach Program (DVOP).*—All State Administrators will immediately take the following actions:

(1) Meet with State Merit System Director and discuss the impact of provisions of P.L. 96-466 relating to the DVOP program on current policies and regulations. Urge the State Merit System Director to make necessary administrative changes or to initiate revisions to State policies, as appropriate.

(2) Elevate to the ETA Regional Administrator in writing, DVOP issues on the State merit system that cannot be resolved at the State level, with copies to the State and Regional Directors for Veterans Employment.

(3) Review and revise current DVOP position description as needed to reflect functions mandated by P.L. 96-466.

(4) Initiate administrative actions necessary to ensure proper classification and entry-level professional compensation of DVOP staff.

(5) Hold a preliminary planning meeting with the State Director for Veterans Employment (SDVE) on implementing P.L. 96-466 provisions which relate to assigning DVOP staff, particularly on the outstationing of staff in locations other than ES local offices. (Refer to B, 6.)

Also, hold similar discussions with VA regional or facility officials at such time as determined appropriate by the State Administrator and SDVE. This meeting should be for briefing and preliminary planning only.

Plans for outstationing of DVOP staff must not be implemented until the National Office issues direction and specific allocations of positions.

b. *Definitions.*—

(1) *Immediate Actions.*—All State Administrators will:

(a) Ensure that the new definition of eligible veteran (see d (4) above) is implemented and applied to all new and renewal applicants as previously instructed by the Regional Office. Ensure that staff review dates of military service (ES-511, Item No. 11) of applicants previously identified as veterans when they contact local offices and change the veteran characteristic as appropriate for those who served 180 days or less.

(a) Train appropriate State and local office staff on the revised veterans' definitions, including actions to be taken effective April 1, 1981, (described below), to facilitate planning.

(2) *Actions to Be Taken Effective April 1, 1981.* All State Administrators will ensure that local offices will:

(a) No longer classify veterans as Recently Separated Veterans (ES-511), Item 29, codes 1, 2, or 3) or as Other Vietnam-era Veterans (ES-511), Item 30 code 3).

(b) Identify all new applicants who are Vietnam-era veterans by entering codes 4, 5, or 6, as appropriate in Item 29 on the ES-511. Also, Vietnam-era veterans who served in Indochina, Korea, or the waters adjacent thereto are still classified as Special Veterans in Item 30, code 1, of the ES-511.

(3) *Other Actions to Be Taken.*—

(a) Veteran classifications will be converted automatically to the new classification by the computer as of the close of business March 31, 1981, as follows:

1. Individuals identified as Other Vietnam-era Veterans (Item 30, code 3) as of March 31, 1981, will be automatically converted to Vietnam-era Veterans (Item 29, codes 4, 5, or 6 as appropriate); the other Vets and Eligibles field will be converted to "Blank" in ESARS and "No" in the Applicant Data System (ADS).

2. Individuals identified as Recently Separated Veterans (Item 29, codes 1, 2 or 3) will be converted to Other Veterans (codes 7, 8 or 9, as appropriate).

3. Individuals identified as Special Veterans (Item 30, code 1) and also identified as Other Veterans (Item 29, codes 7, 8 or 9) will be automatically converted to Vietnam-era Veterans (codes 4, 5 or 6, as appropriate).

For information purposes, each local office will be furnished with a listing of veterans automatically converted.

Regional ADP program changes will be issued through regular channels.

(b) Applications of veterans who were automatically reclassified should be updated in hard copy files (if appropriate) as veterans contact the local office for service. It is not necessary to report such updates to the computer. Also, special veterans coded 7, 8 or 9 will be changed to 4, 5 or 6, as appropriate.

(c) Form ES-511 will be revised in fiscal year 1982 to reflect these changes.

(d) These changes will be reflected in the next revision of the "ESARS Handbook"; the "ETA Glossary," and the veterans regulations.

6. *Action Required.*—Administrators are requested to provide the above information to appropriate staff and ensure that they are familiar with it.

7. *Inquiries.*—Direct questions to the Regional Office.

8. *Attachment.*—Title V excerpted from Public Law 96-466.

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE AMENDMENTS

PROMOTION OF THE DEVELOPMENT AND ESTABLISHMENT OF EMPLOYMENT, TRAINING, AND OTHER OPPORTUNITIES

SEC. 501. Section 244 is amended by—

(1) redesignating clauses (2) through (5) as clauses (3) through (6), respectively; and

(2) inserting after clause (1) the following new clause (2):

"(2) in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title;".

PROMOTION OF THE DEVELOPMENT OF PROGRAMS OF TRAINING ON THE JOB

SEC. 502. Section 1772 is amended by adding at the end the following new subsection:

"(d) Pursuant to regulations prescribed by the Administrator in consultation with the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 2003A of this title to promote the development of such programs.".

ELIGIBILITY FOR JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES

SEC. 502. Section 2001 is amended by—

(1) amending paragraph (1) to read as follows:

"(1) The term 'special disabled veteran' has the same meaning provided in section 2011(1) of this title,"; and

(2) redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively, and inserting after paragraph (1) the following new paragraphs:

"(2) The term 'veteran of the Vietnam era' has the same meaning provided in section 2011(2) of this title.

"(3) The term 'disabled veteran' has the same meaning provided in section 2011(3) of this title.

"(4) The term 'eligible veteran' has the same meaning provided in section 2011(4) of this title.".

ELEVATION OF DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT TO ASSISTANT SECRETARY

SEC. 504. (a) Chapter 41 is amended by—

(1) striking out "Deputy" in the item relating to section 2002A in the table of sections at the beginning of such chapter;

(2) striking out "Deputy" before "Assistant Secretary" in section 2002;

(3) striking out "Deputy" in the catchline of section 2002A; and

(4) striking out "Deputy" before "Assistant Secretary" in section 2002A.

(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment.

(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section, shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by the amendments made by subsection (a)).

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Assistant Secretary of Labor for Veterans' Employment."

CLERICAL SUPPORT FOR VETERANS' EMPLOYMENT REPRESENTATIVES

SEC. 505. Section 2003 is amended by inserting "(and shall assign full-time clerical support to each such representative)" after "employment representative" the first time such term appears in the first sentence.

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 506. (a) Chapter 41 is amended by inserting after section 2003 the following new section:

"§ 2003A. Disabled veterans' outreach program

"(a)(1) The Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

"(2) Funds provided to a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialist shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

"(3) The Secretary shall also make available to the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

"(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

"(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

"(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

"(B) Services to other disabled veterans.

"(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

"(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseli ; pursuant to section 621A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

"(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

"(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

"(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

"(4) Provision of appropriate assistance to community-based groups and organizations and prime sponsors under the Comprehensive Employment and Training Act in providing services to such veterans.

"(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilites pursuant to this chapter.

"(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

"(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

"(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veteran's outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appontment.

"(e) The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment".

(b) The table of sections at the beginning of chapter 41 is amended by inserting after the item relating to section 2003 the following new item:

"2003A. Disabled veterans' outreach program.".

EMPHASIS ON VETERANS OF THE VIETNAM ERA AND DISABLED VETERANS; REVISION OF ANNUAL REPORT

SEC. 507. Section 2007 is amended by—

(1) striking out "those veterans who have been recently discharged or released from active duty" in subsection (a)(1) and inserting in Lieu thereof "veterans of the Vietnam era and disabled veterans"; and

(2) striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service.".

ELIGIBILITY FOR EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS OF THE VIETNAM ERA

SEC. 508. The text of section 2011 is amended to read as follows:

"As used in this chapter—

"(1) The term 'special disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(2)(A) Subject to subparagraph (B) of this paragraph, the term 'veteran of the Vietnam era' means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

"(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

"(3) The term 'disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(4) The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released there from with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

"(5) The term 'department or agency' means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5.".

FILING OF COMPLAINTS REGARDING VIOLATIONS OF EMPLOYMENT EMPHASIS PROVISIONS IN FEDERAL CONTRACTS

SEC. 509. Subsection (b) of section 2012 is amended to read as follows:

"(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.".

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT AND TRAINING ADMINISTRATION,
Washington, D.C., June 9, 1981.

Directive: General administration letter No. 18-81, change 1.
To: All State employment security agencies.
From: T. James Walker, Administrator, Administration and Management.
Subject: Implementation of Public Law 96-466, Veterans Rehabilitation and Education Amendments of 1980.

1. *Purpose.*—To provide further instructions for implementing Public Law 96-466.

2. *References.*—GAL No. 26-81; Public Law 96-466.

Background.—Basic GAL No. 18-81 provides a summary of applicable provisions of Public Law 96-466 which amended Chapters 41 and 42 of Title 38, U.S. Code, and procedures for implementing those provisions.

The mandate for outstationing DVOP staff is:

> Section 2003A(b) (2), Chapter 41, states that no more than three-fourths of the DVOP staff shall be stationed at local employment offices in each State. Other DVOPs shall be stationed at VA readjustment counseling centers, veterans assistance centers, and other sites deemed appropriate by the Secretary after consultation with the VA Administrator.

This directive provides implementing instructions for outstanding Disabled Veterans Outreach Program (DVOP) staff in locations other than ES local offices.

4. *Additional Instructions.*—

a. *Implementation.*—Requirement for outstationing of DVOP staff must be implemented by October 1, 1981.

b. *DVOP Staffing Levels.*—

(1) Regional Administrations will provide SESAs with specific DVOP staffing levels computed on the formula provided by law.

(2) State Administrators should arrange a meeting with the State Director for Veterans' Employment (SDVE) to discuss assigning not more than three-fourths of the DVOP staff in local employment service offices and outstationing the remaining one-fourth. Assignment of DVOP staff to local employment service offices should be

based on veteran concentration and needs of disabled veterans for employment services.

(3) As soon as possible, State Administrators should meet with VA regional or facility officials to discuss the outstationing of DVOP staff and coordinating administrative procedures A memorandum of understanding should be prepared to include agreements such as number of staff to be outstationed, worksites, assignments, supervisory relationships and reporting. State Administrators shall identify and assign individuals for outstationing. In the memorandum of understanding, the State Administrator may wish to assign individuals on a part-time basis rather than full-time staff as long as the 25 percent requirement is met. The memorandum of understanding should also address Va maintenance of effort. This ensures that DVOP staff assignments are in addition to and do not supplant employees engaged in functions or activities that are regular VA responsibilities. DVOP staff shall be assigned only to those duties directly related to meeting employment needs of eligible veterans.

5. *Action Required.*—State Administrators shall:

a. Implement the above instructions, and

b. Assure that all recipients of GAL No. 26-81, as well as other concerned personnel, receive a copy of this document to ensure coordination of all activities relating to budget reductions.

6. *Inquiries.*—Direct questions to the Regional Office.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT AND TRAINING ADMINISTRATION,
Washington, D.C., July 6, 1981.

Directive: General administration letter No. 18-81, change 2.
To: State employment security agencies.
From: T. James Walker, Administrator, Administration and Management.
Subject: Implementation of Public Law 96-466, Veterans Rehabilitation and Education Amendments of 1980.

1. *Purpose.*—To provide additional information for implementing provisions of Public Law 96-466 relating to the employment of veterans by Federal contractors.

2. *References.*—GAL No. 26-81; Public Law 96-466.

3. *Background.*—Basic GAL No. 18-81 provides a summary of applicable provisions of Public Law 96-466 which amended Chapters 41 and 42 of Title 38 U.S. Code, and procedures for implementing those provisions. In addition to the provisions summarized in GAL No. 18-81, Public Law 96-466 amended Section 2012(b), Chapter 42, Title 38, U.S. Code, to read as follows:

> "(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations."

As amended, Section 2012(b) clarifies the channels veterans should follow in seeking settlement of complaints against Federal contractors. Before the 1980 amendments, the law required the Veterans Employment Service to accept and send veterans' complaints against Federal contractors to the Office of Federal Contract Compliance (OFCCP). This requirement, in practice, was done by local ES office Veterans Employment Representatives (LVERs). Veterans may now file their complaints directly with OFCCP.

4. *Action Required.*—Administrators are requested to provide the above information to appropriate staff.

5. *Inquiries.*—Direct questions to the Regional Offices.

OFFICE OF VETERANS' REEMPLOYMENT RIGHTS

Question 1. What is the number of staff years under the fiscal year 1982 budget that you have to work your veterans reemployment rights cases?

Is there a cap on the number of staff years that OVRR is working under in investigating and developing reemployment rights cases?

If there is a cap on the staff years available, can you be sure that these staff years are sufficient to adequately investigate reemployment rights cases?

Answer. The fiscal year 1982 budget for the Office of Veterans' Reemployment Rights provides for a total complement of 48 staff members (or 48 staff years, plus

possible overtime). This represents our "cap" in the sense that it is the extent allowable in the program's budget. Our current projections are that our VRR workforce will be able to meet program needs for fiscal year 1982.

Question 2. In testimony before the Subcommittee on February 2, a representative of the Disabled American Veterans indicated that the Secretary of Labor might be considering transferring the OVRR to the VES without staff or budget. Would you comment on this? In other words, the OVRR would report to the Assistant Secretary of Labor for Veterans Employment, but otherwise the staff assistance and investigators would remain the same. Is this the way you would envision a transfer of OVRR to the ASVE's office?

Answer. No final decision concerning the transfer of OVRR has been made.

91-318 O—82——12

STATEMENT BY

MUDO JUROVICH, EXECUTIVE DIRECTOR

WYOMING EMPLOYMENT SECURITY COMMISSION

Mr. Chairman, members of the Subcommittee, my name is Mudo Jurovich. I am Executive Director of the Wyoming Employment Security Commission and Chairman of the Veterans Committee of the Interstate Conference of Employment Security Agencies, Inc. (ICESA). With me today is Mr. William L. Heartwell, Jr., Executive Vice-President of the ICESA, and Alan Lafferman, ICESA Staff Associate. The Interstate Conference represents the Public Employment Service and Unemployment Insurance systems in all fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands. We appreciate the opportunity to appear before you today, to describe the budget cuts imposed on the Job Service and the impact that this severe action will have on our ability to serve veterans.

When I appeared before this Subcommittee in April of last year, I requested your assistance in: (1) restoring a proposed $150 million cut to Job Service funding, as put forward in the President's initial FY 1982 budget, and (2) continued funding for the Disabled Veterans Outreach Program (DVOP) out of general revenues, as opposed to the Administration's plan to have the Job Service totally absorb all program costs within its reduced budget. At that time, I also informed you that, unlike many other domestic programs whose staffing levels have grown enormously, the Job Service had experienced no growth in staff during the previous two decades. In fact, the Job Service had a staff year level of 30,000 for each of the 16 years leading up to FY 1982; and this in the face of a labor force that had grown approximately 42 percent during this same period. I further testified that the combination of the proposed $150 million cut and requirement to absorb the DVOP, at an annual cost of $43 million, would force state administrators to close a number of local offices, lay off staff and curtail services. Our efforts to avert this reduction were not successful. The result was the closing of nearly 500 local

offices, 5,200 staff layoffs and a modification in service delivery. We began Fiscal Year 1982 as a national system that had definitely been weakened, but remained determined to continue adequate services to all employers and applicants, including veterans. However, despite this cautious optimism and dedication, the most recent action by the Congress, in enacting the Third Continuing Resolution on December 15, has resulted in a cut to Job Service funding so deep that the existence of the entire system is in jeopardy.

Specifically, the Job Service has been cut an additional $204.5 million for FY 1982, bringing the total reduction to $354.5 million, or more than 40 percent from the FY 1981 operating level. Further, it is important to recognize that the latest cutback results in reductions of more than 40 percent in lost staff and services because each state Job Service agency must make up for the higher expenditure rate experienced over, at least, the first quarter. This, together with the costs normally associated with staff separations, such as severance pay, annual leave, unemployment insurance, etc., will reduce Job Service staff years from the October 1 level of 24,800 to approximately 13,000. Staff for the labor market information program as well as essential administrative and technical positions must also be absorbed out of 13,000. While final figures are not, as yet, in, it is likely that an additional 600 local offices will be closed, taking the system below 1,500 locations from approximately 2,500 that were operating in FY 1981.

Reductions of this magnitude in the national labor exchange and labor market information systems are totally inappropriate when economic conditions are moderate to good, but it is irresponsible when the national unemployment rate is at historic levels, with estimates approaching double-digit levels. The Job Service must have adequate staff and facilities, if it is to be

effective in servicing such large numbers of unemployed. All client groups will be severely impacted, including veterans, despite the fact that there are dedicated staff required by law and/or regulation to serve veterans.

The members of this subcommittee must recognize that even though the Job Service is required to have 2,016 DVOP specialists and 1,300 - 1,500 local veterans employment representatives (LVERS), there will still be a critical impact on our ability to adequately service veterans. Veterans have received services from Job Service staff who serve the general population in addition to those staff who serve veterans exclusively. Consider the following:

(1) The closure of approximately 1,000 local offices, 40 percent from previous levels, will mean fewer locations where LVERS and DVOP specialists can service veterans. All applicants, including veterans, will be forced to travel longer distances for service where they are likely to face long lines and extended delays. The burden on the handicapped will be even more severe. Many will become discouraged and perhaps drop out of the labor market.

In FY 1981 the Job Service placed 509,000 veterans in employment, but our ability to continue in this direction is questionable.

(2) A great many veterans received professional counseling assistance from general Job Service staff. In FY 1981, 230,000 individual veterans were provided this service, but as a result of the most recent budget cut, this level will likely be reduced 50-60 percent.

(3) Those veterans in need of testing services to determine skills, aptitude or job interest were able to receive such assistance without delays in FY 1981, from the Job Service. In FY 1981, 81,851 veterans were tested, but we anticipate this capacity to be reduced 50 percent or more, and to be available in far fewer locations.

(4) State Employment Security Agencies have a portion of their Job Service grants budget devoted to the labor market information program. Valuable occupational information is produced that is extremely vital to new entrants in the labor market as well as those concerned about changing careers. This and other helpful information may have to be eliminated or severely reduced, as a result of the recent budget cut.

(5) Because LVERS and many DVOP specialists are subject to state merit staffing procedures, all are vulnerable to being laid off or transferred to other jobs. This would result in the assignment of new personnel to serve as DVOP specialists and LVERS and, of course, they will have to be trained. It will take time for these individuals to learn their new jobs and particularly the special needs of the veteran. The current system, under the best of circumstances, will be disrupted with the veteran suffering along with all other applicants.

There are other areas within our delivery system that will be affected by the cutback and result in diminished services to all applicants, including veterans. I have attempted to highlight the most obvious, but the message I hope that I have delivered to you today is that veterans are not immune from the effects of this massive reduction. They too will suffer, despite the fact that we have staff dedicated to serving them. A restoration of funds to the Job Service is expeditiously needed, and I request your assistance in making this a reality.

Thank you for the opportunity to present this testimony. We will be happy to provide any additional information that this subcommittee may desire.

STATEMENT OF
RONALD W. DRACH
NATIONAL EMPLOYMENT DIRECTOR
DISABLED AMERICAN VETERANS
BEFORE THE
U. S. HOUSE OF REPRESENTATIVES
VETERANS AFFAIRS COMMITTEE
SUBCOMMITTEE ON EDUCATION, TRAINING,
AND EMPLOYMENT
FEBRUARY 2, 1982

Mr. Chairman and members of this Committee:

The Disabled American Veterans is ambivalent about its appearance before you today to discuss the ongoing problems of employment among disabled and Vietnam Era veterans.

On one hand, Mr. Chairman, we are pleased to be here to offer our views and recommendations. On the other hand, we are concerned that this Committee must again conduct hearings to determine why, despite numerous programs and federal laws, over the past decade, disabled and Vietnam veterans still have not made it in the civilian labor force.

Mr. Chairman, the DAV throughout its more than 60 year history has supported the need for a strong national defense. We consider as a part of this strong national defense there is a responsibility by the federal government to assure that this nation's veterans readjust adequately and have an opportunity to participate in the mainstream of life.

Regrettably, economic and other factors compounded the problems of readjustment for Vietnam Era veterans, especially

those who returned with disabling conditions. The Congress and various Administrations over the past decade have attempted to enact legislation and implement administrative programs to address these needs. Regrettably, the legislation has been inadequately enforced and the administrative programs have been mismanaged and woefully implemented. Mr. Chairman, Vietnam veterans were worse off in December, 1981 than they were in December, 1974.

In December, 1974 Congress enacted and the President signed Public Law 93-508, The Vietnam Era Veterans' Readjustment Assistance Act of 1974. Among other things, this legislation established an affirmative action employment program for certain Vietnam Era and disabled veterans. This involved private sector employers who were federal contractors.

I think of significant interest is the concept behind affirmative action which, by its very nature, is designed to provide employment opportunities to this group of veterans. Table 1 shows: (a) the number of available disabled and Vietnam Era veterans (covered by affirmative action); (b) total number of these veterans placed in affirmative action jobs and (c) total job openings listed with the State Employment Security offices.

It is our opinion, Mr. Chairman, that these data reflect a national disgrace when Congress intended that

disabled and Vietnam Era veterans were to get priority consideration for these jobs. From Fiscal Year 1975 through Fiscal Year 1981 almost seven million jobs were listed by federal contractors with the public Employment Security Offices. Despite a mandate for these employers to take affirmative action and for the employment service to refer disabled and Vietnam Era veterans on a priority basis, these covered veterans obtained less than 6% of these jobs.

TABLE 1

MJL

Fiscal Year 1975-81

		Registered	Placed	Job Openings
1975	a. Vietnam Era	1,588,000	80,000	845,000
	b. Disabled	135,000	1,500	
1976	a. Vietnam Era	2,136,673	93,000	981,000
	b. Disabled	195,437	1,398	
1977	a. Vietnam Era	2,174,000	104,000	1,131,000
	b. Disabled	200,000	2,000	
1978	a. Vietnam Era	790,751	17,341	1,260,324
	b. Disabled	193,402	3,285	
1979	a. Vietnam Era	1,104,941	41,543	1,180,601
	b. Disabled	175,971	3,254	
1980	a. Vietnam Era	950,000	22,171	874,946
	b. Disabled	123,137	2,588	
1981	a. Vietnam Era	881,000	42,000	713,000
	b. Disabled	107,000	2,000	
TOTALS				
	a. Vietnam Era	9,625,365	400,055	6,985,871
	b. Disabled	1,129,947	16,025	

Mr. Chairman, how do we measure unemployment? The Department of Labor certainly has a complex method to determine who is or who isn't unemployed. All too often, the discouraged job seeker "drops out" of the job market and is no longer officially considered unemployed. This happens to all segments of our society, including Vietnam Era veterans. The official rate of unemployment for December, 1981 for Vietnam Era veterans was 7.5%. In December, 1974 it was 7.0%.

Perhaps more important than percentages, Mr. Chairman, are the number of people involved. In December, 1981 616,000 Vietnam Era veterans were officially unemployed; up from 418,000 in December, 1974. Mr. Chairman, that is a net increase of almost 200,000 unemployed Vietnam Era veterans.

Another way of looking at unemployment, in our opinion, is to consider who had full-time jobs. According to a recent survey conducted by the Veterans Administration titled: "Employment and Unemployment Among Vietnam Era Veterans," we find that approximately 90% of all Vietnam veterans had a full-time job in 1979. This would certainly indicate, Mr. Chairman, that a full 10%, or approximately 900,000 did not have a full-time job in 1979.

Another factor that needs to be analyzed, Mr. Chairman, is income of these veterans who do work. This same study

revealed that 78% of Vietnam Era veterans were married when they served during the Vietnam Era and 69% had two or more dependents. We are not talking about single veterans without families to support. An overwhelming percentage have dependents. Despite that, the same study reveals that 50% of all Vietnam Era veterans earned less than $15,000 in 1978. Twenty-five percent earned less than $10,000, and 12.2% had incomes of less than $5,000.

How then, Mr. Chairman, is unemployment really measured? A great statesman, Hubert Humphrey, once said, "If people understood the extent to which unemployment affects the suicide rate, divorce rate and crime rate, they would be a lot more inclined to do something about it." I recommend to the Committee the "Essay" that appeared in the January 18, 1982 edition of Time magazine titled: "The Anguish of the Jobless." I offer the following excerpts:

> "...the modern habit of mistaking statistics for reality makes it easy to overlook the fact that the rate [unemployment] stands for an indigestibly large number of individuals -- 9.5 million."
>
> "Each point in the unemployment rate also represents, as the President explained last month, roughly $19 billion in potential but lost federal

revenues, plus some $6 billion in financial assistance that the government disburses to the jobless."

"...statistics tell nothing whatever about the reality of joblessness."

"...sociologist M. Harvey Brenner of Johns Hopkins University in Baltimore found that a 1% increase in the national unemployment rate was associated with a 4.1% increase in the suicide rate and increases of 3.4% in admissions to state mental hospitals, 4% in state prison admissions and 5.7% in the homicide rate."

"...it is fitting...to mourn the nation's way of casually accepting increased unemployment as an unavoidable trade-off cost in the effort to achieve monetary stability and defeat inflation."

Mr. Chairman, the article concludes by quoting newspaper columnist Russell Baker:

"It is obvious that unemployment is an honorable form of service to the nation."

Mr. Chairman, these veterans have already performed an honorable period of service to this nation and they should not and must not be asked to further perform this "service."

Perhaps, Mr. Chairman, the plight of Vietnam veterans is summed up by the comments of a Vietnam veteran who contacted us back in November seeking employment assistance.

> "I have been everywhere from a gas station to a hospital looking for work. I just don't know where else to turn. Sometimes I feel it would have been better to have gotten it all over with in Nam. Then maybe we wouldn't have been such a burden."

That veteran's letter is attached to my statement, Mr. Chairman.

Mr. Chairman, this pernicious problem persists despite affirmative action; Veterans emphasis in the Comprehensive Employment and Training Act; participation in the targeted jobs tax credit program; specially designed programs for veterans, e.g., Help Through Industry Retraining and Employment (HIRE), Disabled Veterans Outreach Program (DVOP) and other legislative and administrative initiatives.

I would like to discuss two of the more recent legislative initiatives -- 1) the establishment of the position of Assistant Secretary for Veterans' Employment; 2) the statutory authority for the Disabled Veterans Outreach Program (DVOP).

On November 17, 1981 the Senate Veterans Affairs Committee and Senate Labor and Human Resources Committee convened jointly to conduct hearings on the confirmation of William C. Plowden, Jr. to be the first Assistant Secretary of Labor for Veterans Employment. We would like to point out, Mr. Chairman, the appointment of Mr. Plowden is the last Presidential appointment in the Department of Labor by the current Administration.

The fact that those hearings took place almost ten months following the current Administration's taking office is of paramount concern to the Disabled American Veterans.

Mr. Chairman, Section 504 of Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980, amended Section 2002A of Title 38 and changed the position of Deputy Assistant Secretary of Labor for Veterans' Employment to a full Assistant Secretary of Labor for Veterans' Employment. The incumbent of this position is to be appointed by the President with the advice and consent of the Senate. One of the major functions of this individual is to be "...the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures..." regarding veterans' employment programs.

Mr. Chairman, apparently the Secretary of Labor was without such a principal advisor since he took office early

in 1981. We have to conclude that the Secretary has received very little advice and consultation with respect to veterans' employment programs. The DAV views that lack of action by the current Administration as insensitive to the employment needs of this nation's veterans, especially disabled veterans.

Mr. Chairman, the DAV wishes to offer the following views, recommendations and suggestions that we believe are necessary for the Assistant Secretary to carry out the literal intent of Congress.

In the past we have seen bureaucratic barriers that inhibited and virtually prohibited the former Deputy Assistant Secretary from complying with federal law. We believe that the incumbent of this position must have the ability to fulfill that mandate without interference from other Department of Labor officials. Direct access to the Office of the Secretary of Labor and the Secretary himself is imperative.

All too often over the past several years we have seen policy determinations and implementing instructions issued without any discussions with the Office of Veterans' Employment. Effective communication between the Department of Labor and veterans' organizations has been substantially ineffective. On many occasions the DAV has learned of policy determinations

affecting veterans' employment and training programs from other sources. Inquiries revealed that many times the Office of Veterans' Employment was not even informed, let alone permitted to have input into the decision-making process.

We have urged the Department of Labor in the past and will continue to urge the appointment of a Deputy Assistant Secretary to work directly with Mr. Plowden.

We believe that an immediate reorganization should take place to assure that the Veterans' Employment Service is elevated to the status consistent with other components having an Assistant Secretary as its head. We recommended and continue to support the transfer of the Office of Veterans' Reemployment Rights functions from the Assistant Secretary for Labor Management Services to the Assistant Secretary for Veterans' Employment. Ths transfer must include the entire staff and budget.

We also believe that a close coordination should exist between VES and the Office of Federal Contract Compliance Programs (OFCCP). Currently OFCCP investigates complaints of discrimination against federal contractors by covered disabled and Vietnam Era veterans. We are at this time reserving judgement as to the entire transfer of that function to the Assistant Secretary. We do, however, believe that

Mr. Plowden should designate a top staff person to be the liaison between his office and OFCCP. We also believe that the Assistant Secretary should have functional responsibility to oversee the enforcement activities of OFCCP as they relate to covered veterans. This responsibility should also be delegated to the VES field staff.

Mr. Chairman, we believe that the incumbent should also strongly urge and encourage the Secretary of Labor to reestablish and conduct the quarterly meetings of a "Secretary's Committee on Veterans Affairs." That Committee has functioned on and off over the years and was generally chaired by the Secretary of Labor with the Vice Chairmanship assigned to the former Deputy Assistant Secretary for Veterans Employment. We believe that these meetings should be reestablished and Mr. Plowden should be designated as the Vice Chairman.

We also believe that the Assistant Secretary needs to take immediate action to fill existing vacancies within the Veterans Employment Service. Included in these vacancies are a Deputy Assistant Secretary for Veterans Employment and a Secretary in the National Office, 1 Regional Director for Region IX based in San Francisco, California; 4 State Directors for Veterans Employment; 8 Assistant State Directors and 11 Secretaries. A complete breakdown by position and state is as follows:

STATE DIRECTORS

Hawaii
West Virginia
Tennessee
South Carolina

ASSISTANT STATE DIRECTORS

Florida	Kansas
North Carolina	Maryland
Wisconsin	Arkansas
Texas	California

SECRETARIES

Nevada	New Jersey
Michigan	Illinois
Louisiana	Texas
California	Virginia
Montana	Oregon
Vermont	

Mr. Chairman, with the exception of the National Office vacancies, these are positions that are mandated by federal law.

We would anticipate that high on the priority list for Mr. Plowden would be to fill those existing vacancies without intervention from other Labor Department officials.

This would be an excellent opportunity for Mr. Plowden to exercise the authority contained in Section 3112 of Title 5, U.S. Code to appoint noncompetitively those disabled veterans rated 30% or more. He could also use the Veterans' Readjustment Appointment Authority recently extended by Public Law 97-72. By using these authorities the positions of State

Director and Assistant State Directors could be filled in a relatively short time.

Mr. Chairman, perhaps the most significant concern we have today is the future of the Disabled Veterans Outreach Program (DVOP). As we know, the program was first announced in 1977 by former Secretary of Labor Ray Marshall. Public Law 96-466 made it permanent. The staffing formula in the law provides for approximately 2,018 positions nationwide. Estimated costs for Fiscal Year 1982 range from $30 million to $47 million. There is language in both the House and Senate Appropriations Committees that would authorize $43 million to the states to administer DVOP. We believe this $43 million to be sufficient and necessary to carry out the Congressional mandate in DVOP.

Regrettably, the problem of funding DVOP is far from solved if the authorizing Committee's appropriate the $43 million. The reason the problem will not be solved, Mr. Chairman is that Public Law 97-92, commonly referred to as the "Continuing Resolution," has the effect of reducing employment service grants by approximately 40%. Although the total impact of this is yet to be felt, numerous newspaper accounts around the country indicate that as many as 40% to 50% of Employment Security Offices are being closed and an equal percentage of employees are being "laid-off." This has the potential of rendering the Job Service totally

ineffective and despite whatever amount of money that may be earmarked for DVOP, the program will remain in name only.

The tragedy of this, Mr. Chairman, is the misleading belief that by implementing these reductions, we are cutting the budget. While, in fact, the budget is being reduced, it should be pointed out that 97% of the funding for the nationwide network of Employment Security Offices comes from a special employer tax, the Federal Unemployment Tax Act (FUTA). Only 3% of this budget comes from general revenues. Also, as indicated earlier, the President has stated that for every percentage point of unemployment, we lose a potential $19 billion in revenue and another $6 billion in transfer payments. If, by keeping these offices open, the national unemployment rate is reduced by one percentage point, we can realize a savings of $25 billion.

Mr. Chairman, to put this in perspective to the veterans' unemployment rate, I have discussed this issue with a staff person at the Bureau of Labor Statistics. We find that for every percentage point of unemployment for Vietnam Era veterans, we have a potential, but lost, revenue of $1.121 billion and a federal financial assistance payment approximating $708 million. By reducing the veterans' unemployment rate by one percentage point, we can realize a net savings of nearly $2 billion.

I believe, Mr. Chairman, that we can conclude that the nation's system of employment security has the potential to amass huge savings. If the closing of the Employment Security Offices results in a mere 1% rise in the unemployment rate, we have realized a loss of approximately $25 billion. It is hard for us to understand how this budget reduction equates to real savings.

Mr. Chairman, because an appropriations bill has not been passed by Congress nor signed by the President for the Department of Labor's Fiscal Year 1982 programs, we requested specific information from Secretary of Labor Donovan by letter of October 15, 1981. I have attached a copy of that letter to this statement. I would like to point out that the Secretary has neither acknowledged nor responded to the issues raised in that letter.

One of the causes of persistent problems in the past four years was a monitoring system never was implemented to assure DVOP personnel were performing the functions delineated. We are apprehensive that this may continue in the future, unless Mr. Plowden implements a monitoring and reporting procedure.

Additionally, we believe that the $43 million, or whatever other amount is ultimately appropriated, should be administered by the Assistant Secretary's Office. The monies should definitely not be under the control of the

Assistant Secretary for Employment and Training and administered through the normal "grants to states" process that funds the State Employment Security System. We believe that without those controls abuses in DVOP will be rampant.

Mr. Chairman, again, on behalf of the Disabled American Veterans we wish to thank you for allowing us the opportunity to appear before you today. I will be happy to answer any questions you may have.

October 15, 1981

Honorable Raymond Donovan
Secretary of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Sir:

As you know, Section 2003A(a)(1) requires you to "...make available to each state...such funds as may be necessary to support a disabled veterans outreach program..." Under Subsection (a)(3) you "...shall also make available to the states such funds...to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits."

Since the Congress has not passed an appropriation bill for FY 1982, we are interested in knowing what contingency plans are being made to provide the sufficient funds to the states for DVOP. We would appreciate a breakdown by state of the dollar amount allocated to comply with Subsections (a)(1), and (a)(3), respectively.

Section 2003A (d) requires "Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment." (Emphasis added.) In our opinion, this is tantamount to a "no layoff" clause.

It has come to our attention that several states are, indeed, furloughing existing DVOP personnel previously funded under Title III of CETA. Additionally, many of these states who are making conversions to permanent status are doing so effective October 1, 1981. This is in direct conflict with the mandate that these individuals are to be converted "on the date of enactment of this section" which as you know was October 17, 1980. As a result, many of these individuals are losing almost a year of status as permanent employees which may have long-term effects on their retirement and other benefits.

In those states where existing DVOP personnel have been "laid off" we believe there is a direct violation of Section 2003A(d) unless your office has determined that these individuals are not qualified. Please furnish us with the breakdown, by state, of those who have requested a determination of not qualified from your office and how many of those requests were sustained or overruled by your office.

In the event your have delegated this authority to the states, please provide us with a copy of the guidelines provided them from your office.

We would appreciate your early review and response in this matter.

Sincerely,

RONALD W. DRACH
National Employment Director

RWD:lrd

cc: National Commander Roodzant
National Adjutant Adams
National Director of Services Hartnett
Asst. National Adjutant Wilson
Asst. Director of Communications Keller
Administrative Assistant Woods
National Interim Employment Committee
Senator Simpson
Representative Montgomery
Representative Edgar

bcc: The Line

[From Time, Jan. 18, 1982]

THE ANGUISH OF THE JOBLESS

The new unemployment rate: 8.9 percent. Everyone who hears that percentage will know it is fraught with troublesome forebodings. Yet the modern habit of mistaking statistics for reality makes it easy to overlook the fact that the rate stands for an indigestibly large number of individuals—9.5 million. Each point in the unemployment rate also represents as the President explained last month, roughly $19 billion in potential but lost federal revenues, plus some $6 billion in financial assistance that the Government disburses to the jobless. Such statistical elaborations usefully suggest the vast scope of unemployment and its staggering cost in both forfeited wealth and rescue efforts. Yet it is essential to remember that statistics tell nothing whatever about the reality of joblessness.

That reality is always personal and almost always lashed with a confusion of difficult emotions. Indeed, the psychological cost of joblessness is more hurtful to many victims than the strain of making financial ends meet. A few individuals, true enough, are so oddly disposed that they can take unemployment with upbeat nonchalance, making a lark of it or seizing the opportunity to switch careers. Still, Americans more typically take a cruel psychic bruising when they lose a job (never mind the cause). And if joblessness goes on for long, men and women of all ages, occupations and economic classes tend to suffer a sharp loss of self-esteem, a diminished sense of identity, a certain murkiness of purpose, a sense of estrangement from their friends—a sort of feeling of exile from wherever they feel they really belong.

The loss of a job remains, by definition, an economic event. Naturally, it is the economic aspect of the world of the jobless that has become most familiar to the public: the struggle to pay the rent and keep food on the table, the suspenseful search for new work. The intangible atmosphere of the jobless world is less familiar only because it is ordinarily more private, often downright obscure. The most obvious personal wounds of joblessness are often easy to spot, as in the language of Ronald Poindexter, 34, a Washington bricklayer out of work for six months: "I feel sick." But the profound wrench of unemployment is not often disclosed as plainly as in the reflection of Connie Cerrito, 52, of New York City, who last July lost the cosmetics factory position she had held for 35 years. Says Cerrito: "My job was my whole life. That's all I did. It's unbearable now. Staying home is terrible. I can't go on like this."

Common among the jobless is a sense of being condemned to uselessness in a world that worships the useful. Out-of-work people who do not develop such feelings on their own are apt to be given them when they visit the unemployment office: there the applicant is more often treated like an alien culprit in need of interrogation than an unlucky citizen in need of assistance. Says a young writer who was among the anonymous hundreds that Harry Maurer taped for the oral history *Not Working:* "I always get the feeling that the people at the unemployment office think I'm a bum or something." Says another of Maurer's subjects, a welder, of the unemployment rites: "You get a feeling of rejection. Especially the feeling that they're better than you."

The worst jolt of joblessness may be that first notice of it—the firing, the layoff, the company closure. That event, whatever its form, typically arouses feelings like grief, as though a loved one had died, according to experts like Industrial Psychologist Joseph Fabricatore of Los Angeles. The victim, says Fabricatore, passes through stages of disbelief ("This can't be happening"), shock, numbness, rage. The elemental severity of such a reaction tells a great deal about the invisible desolation that is possible—and commonplace—in the world of the jobless. The bruising can show up in feelings of worthlessness. Rage, sadly, often crops up in the form of destructive behavior—wife beating, child abuse, neglect of friends, drunkenness—that increases predictably among the jobless. (In a study of the social effects of unemployment over a 34-year period, Sociologist M. Harvey Brenner of Johns Hopkins University in Baltimore found that a 1 percent increase in the national unemployment rate was associated with a 4.1 percent increase in the suicide rate and increases of 3.4 percent in admissions to state mental hospitals, 4 percent in state prison admissions and 5.7 percent in the homicide rate.)

Surprisingly, or so it seems at first glance, most of the emotional beating that the jobless take is self-administered condemnation. Says a former publishing company worker in her 30s, who was one of Maurer's subjects: "I was persuaded that I must be not only as bad as the company must have thought I was to fire me, but much worse than that. Probably the world's worst. Probably I didn't deserve to live. It doesn't simply take away your self-confidence. It destroys you." Elliot Liebow, chief

of the Federal Government's Center for Work and Mental Health, says that the very nub of the lost-job syndrome is the victim's feeling of being cut off from personal and social power. The sense of powerlessness is compounded by all but universal self-blame, says Liebow, adding: "One very destructive thing is the enormous difficulty people have in seeing themselves as victims of the system. They always blame themselves, and it doesn't matter if you're talking about a plant shutdown or a government layoff."

It is not surprising, only ironic, that the unemployed should take such an uncharitable view of their own ordeal. Actually, they have merely carried into joblessness, and applied to themselves, the attitudes inculcated in them by workaday society. The American view of joblessness has never been overly sympathetic. Pioneer America flaunted its punitive sentiment in a vulgar aphorism: "Root, hog, or die!" While that position has been softened a bit (witness unemployment benefits that have ranged from $9 billion to $19 billion annually in the past few years) in the face of the fact that most of today's idleness is involuntary, the nation has not relinquished its basic view of work as sacred and worklessness as sin. Proof that the old creed persists lies in the self-chastising of the unemployed.

Such social convictions cannot be changed by preaching. Yet it is fitting, considering the frequent bleakness of the world of the jobless, to mourn the nation's way of casually accepting increased unemployment as an unavoidable trade-off cost in the effort to achieve monetary stability and defeat inflation. Newspaper Columnist Russell Baker had the notion of that trade-off in mind a few years back when he wrote: "It is obvious that unemployment is an honorable form of service to the nation." The pity is that he spoke more truth than humor.

NOVEMBER 12, 1981.

DEAR SIRS: I heard your commercial today on the radio so I thought I'd give you a shot.

I have been everywhere from a gas station to a hospital looking for work. I just don't know where else to turn. Sometimes I feel it would have been better to have gotten it all over with in Nam. Then maybe we wouldn't have been such a burden. But I have heard about all the great work you people do. Any information you can send would be appreciated. I'm strong and I can do anything.

Thank you,

———— ————.

BLINDED VETERANS ASSOCIATION
1735 DeSALES STREET, NORTHWEST • WASHINGTON, D. C. 20036 • (202) 347-4010

STATEMENT OF JOHN FALES, JR., EMPLOYMENT DIRECTOR
BLINDED VETERANS ASSOCIATION
BEFORE THE SUBCOMMITTEE ON EDUCATION, TRAINING AND EMPLOYMENT
COMMITTEE ON VETERANS' AFFAIRS, U. S. HOUSE OF REPRESENTATIVES

February 2, 1982

Mr. Chairman and distinguished members of this Subcommittee. On behalf of the Blinded Veterans Association I wish to express my sincere appreciation for this opportunity to appear before you today.

The Blinded Veterans Association is very concerned about the escalation of the unemployment rate among our nation's Vietnam-era veterans. The Bureau of Labor Statistics' data, for December 1981, indicate the unemployment rate for Vietnam-era veterans, age 25-39, to be 8.0%. It must be pointed out however, that this rate is much higher as the BLS data for veterans are not seasonally adjusted. This extremely high unemployment rate should point out the need for more vital veterans employment programs and the necessary manpower to ensure that these programs succeed. The demand exists but new veterans employment programs and the necessary manpower do not. The VETS (Veterans Employment and Training Service) is understaffed. There have been discussions about the elimination of the Regional Directors' positions. These positions are not mandated by law, however, they provide a vital link between State Directors and the VETS Headquarters' staff (See attached list of vacancies). Local Employment Representatives and the DVOPs are being RIFed and there appears to be no new veterans employment initiatives forthcoming.

The U. S. Department of Labor Affirmative Action programs for Vietnam-era, disabled veterans, and the handicapped are in disarray. Although there is a tremendous backlog of Vietnam-era, disabled veterans and handicap complaints, staff and funding are being reduced. The Office of Veterans Re-employment Rights is also in disorder. Insufficient funding and staff has created a lack of essential services

to America's veterans.

The BVA lauds the appointment of W. C. Plowden as Assistant Secretary of Labor for Veterans Employment. We feel strongly that the above-mentioned employment difficulties can be eliminated by Mr. Plowden if all the veterans employment programs within the U. S. Department of Labor are consolidated under his leadership, properly staffed, and properly funded.

The BVA commends Don Devine, the Director of the Office of Personnel Management, for his sincere commitment to our nation's veterans. However, systemic employment discrimination against our nation's blinded and other severely disabled veterans still exists within the Federal Government.

The BVA membership unanimously passed resolution NO. 35/81, asking for the dismissal of the Arkansas State Director of Veterans Employment Service for blatant discrimination against a blinded veteran whom he was supposed to be training and supervising (See attached Resolution). It is hoped that Mr. Plowden will thoroughly investigate this incident and take appropriate actions to ensure that this blatant discrimination never again take place within the VETS. Unfortunately, this is only one among many acts of discrimination against America's blinded veterans within the Federal Government. It is hoped that the Director of the Office of Personnel Management will take the necessary actions to eliminate this practice.

Mr. Chairman, I again wish to thank you for giving me the opportunity to appear before your distinguished Subcommittee.

LIST OF VACANCIES

National Office:

- 1 DASVE
- 1 Secretary

Other Offices:

- 1 Regional Director Region IX, San Francisco.
- 11 Secretaries (Vermont, New Jersey, Virginia, Michigan, Illinois, Louisiana, Texas, Montana, California, Nevada, Oregon).
- 8 Assistant State Directors (Maryland, Florida, North Carolina, Wisconsin, Arkansas, Texas, Kansas, California).
- 4 State Directors (South Carolina, West Virginia, Tennessee, Hawai).

TOTAL OF 26 vacancies

RESOLUTION NO. 35/81

WHEREAS, there has been systemic employment discrimination against blinded veterans within the Federal Government, AND

WHEREAS, the BVA has been reluctant to take strong action against individuals and Federal Agencies who have been guilty of this discrimination, AND

WHEREAS, the BVA knows of a recent and specific case of malicious discrimination within the State of Arkansas, AND

WHEREAS, this malicious discrimination by the Arkansas State Director of the Veterans Employment Service U.S.D.O.L. caused a blinded veteran to resign his position, AND

WHEREAS, the Veterans Employment Service was originally established to prevent such discrimination, AND

WHEREAS, the BVA should not allow this type of action to go unchallanged in this specific case nor in future cases, THEREFORE BE IT

RESOLVED, that the BVA ask for the dismissal of the State Director or the Arkansas State Veterans Employment Services U.S.D.O.L.

VIRGINIA EMPLOYMENT COMMISSION

INTER-OFFICE COMMUNICATION

To: Mr. William F. Dillion, Associate Commissioner for ES, Mrs. Betty Ann Tulloh, Employee Relations Manager.
From: Robert J. Barry, Assistant Attorney General.
Subject: Disabled veteran outreach program.

This is in response to several inquiries concerning the effect of the Virginia Employment Commission's obligation to employ disabled veteran outreach program (DVOP) specialists and what effect this requirement must have on the VEC's ongoing Reduction in Force (RIF) implementation. Also, the issue of whether the agency is required to employ DVOP specialists in the absence of special funding for that purpose has been raised.

Public law 96-466 (1980) codified at 38 USC § 2003A requires that the Secretary of Labor make available to each state, funds to operate a disabled veteran outreach program. Each state shall then use these funds to appoint one DVOP specialist for every 5,300 veterans of the Vietnam era or disabled veteran within the State. The new law also provides that in making such appointments, preference shall be given first to disabled veterans of the Vietnam era, second to any disabled veteran, and thirdly to any veteran. In any event, a DVOP specialist must be a veteran, and may not perform either the duties of a local Veteran's Employment Representative (LVER) or that of a regular employment service interviewer.

The impact of this federal legislation is to provide an immediate affirmative obligation on VEC to employ sufficient DVOP specialists to satisfy the formula requirement. The issue is then squarely raised as to whether the number of DVOP specialists employed by VEC may be reduced by the current reduction in force. My opinion is that it may not be reduced unless the State currently employs more DVOP specialists than are required by § 2003A. When a conflict arises between unavoidable obligations imposed by federal law and a State policy regarding lay-offs, the federal law must prevail. Accordingly, DVOP specialist positions currently in place at VEC must be maintained if already at the formula level, and either increased or decreased if the number of positions currently in place is not the formula-required number.

The issue then becomes, how to maintain the necessary positions while doing as little harm as possible to the RIF. At the outset it should be stated that although DVOP specialist positions must be maintained, this does not mean that in each case, the particular person currently holding the position in each organizational unit must remain. The following procedure is suggested. If a position currently held by a DVOP specialist has been designated for elimination, this designation must be rescinded, and the position retained. If the reduction has the effect of laying off a DVOP specialist and thereby eliminating an existing DVOP position, this result must also be avoided. The person in that position and currently acting as a DVOP specialist must remain unless there is a person within the organizational unit whose preference under § 2003A exceeds that of the incumbent specialist, and this person with a higher preference is scheduled to be laid off. Alternatively stated, if the incumbent specialist is a disabled, Vietnam era veteran, he shall remain unless there is in the organizational unit a person with the same status and greater seniority. If the incumbent specialist is a disabled veteran, he shall remain unless there is in the organization unit a disabled veteran with more seniority or any Vietnam era disabled veteran. If the incumbent specialist is simply a veteran, he shall remain unless there is in the organizational unit a veteran with more seniority or any disabled veteran or any Vietnam era veteran. This pattern of retention satisfies first the preferences of § 2003A, and secondly the seniority based requirements of the State RIF policy.

It is acknowledged that situations will occur where persons with substantial seniority will be laid off and veterans far junior in State service will remain on the job. This result will be contrary to faithful execution of the State RIF policy, but is unavoidable due to the federal law.

The issue of whether a state may be compelled to employ DVOP specialists without sufficient, dedicated funding has also been raised. Specifically, may VEC ignore the requirements of § 2003A if the Secretary of Labor does not provide necessary funding. It is clear that the law specifies full funding on all DVOP specialist positions, and by implication this funding is in addition to funds provided through regular employment service grant funds. This issue is currently being considered in several states and may soon be litigated by states against the Department of Labor. My advice is that this issue is far too uncertain for Virginia to now take a stance of

knowingly disregarding the new DVOP law, and this is especially so since funding is currently available, and will be through the end of fiscal year 1981. Should funding ultimately not be available, this issue should be reexamined and the progress of other states in contesting the impact of the statute should be evaluated. It is quite possible that the Secretary will step in before fiscal year 1982 and either provide the funding which is currently in doubt or promulgate less restrictive requirements for implementing the disabled veteran's requirements of § 2003A.

Please contact me if additional information or clarification is required.

TESTIMONY OF GABRIEL P. BRINSKY

AMVETS National Service & Legislative Director

Before The
SUBCOMMITTEE ON EDUCATION, TRAINING & EMPLOYMENT

Of The
COMMITTEE ON VETERANS AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

February 2, 1982

Good morning, Sir. AMVETS appreciates this opportunity to appear today to express its views as this Committee reviews the programs relating to veterans authorized in Chapters 41, 42 and 43 of Title 38, U.S. Code as well as other programs which come within the responsibility of the Assistant Secretary for Veterans Employment.

AMVETS has assigned as top priority goals the resolution of the Agent Orange problem and the need to meet the demands of the unemployment problem particularly as it exists in the sector of our Vietnam veterans. For we sincerely believe that many of the difficulties being encountered by our Vietnam veterans in attempting to take their place in society can be resolved by providing them with employment and the dignity which such independence provides. What was extremely discouraging to our organization is the fact that between 300 thousand to 500 thousand Vietnam veterans have been unemployed monthly during the past decade. The figure is staggering when one stops to consider that a half-million out of nine million are unemployed Vietnam veterans.

We believe that the Congress has sincerely attempted to meet the problems of unemployment of our veterans. The stumbling block is that the means provided or made available have not been fully utilized. Some

positions in the Veterans Employment Service were never filled and others continue to remain vacant. We are extremely hopeful that with the Enactment of Public Law 96-466,which created the position of Assistant Secretary of Veterans Employment,that a change in this environment will occur.

Our great concern for the unemployed Vietnam veteran prompted the National Commander of AMVETS to address a letter to the President of the United States last month in which he suggested a general program for consideration to assist training and placing the unemployed Vietnam veteran in the private work-force sector. Among the suggestions was the issuance of a Presidential Proclamation which would announce a major employment and training program specifically for Vietnam Era veterans. A Directive would be issued from the White House calling for the participation of all private sector employers and the designation of the Veterans Administration together with the Department of Labor as lead agencies. Consideration was urged of the creation of a system of tax incentives to employers. The utilization of the existing Disabled Veterans Outreach Programs could serve as an implementing tool in carrying out such a program.

To demonstrate our concern, AMVETS has added to its professional staff an individual who will be charged with the unemployment problems of our veterans. In addition, we have compiled an extensive pamphlet to serve as instructional material for our National Service Officers and others engaged in combating the unemployment problem of our Vietnam veterans. In regards to veterans preference, we are pleased with the performance of the Honorable Donald Divine, the Director of the United States Office of Personnel Management. Compared to past experiences, we find his attitude and that of his staff as being extremely refreshing. He has

demonstrated a sensitivity to the problems which confront all veterans and for which AMVETS is extremely grateful. His testimony before this Committee last November outlined an approach to the veterans' problems which was extremely encouraging. We have acknowledged this fact through press releases and in the official communication organs of AMVETS.

In view of Mr. Divine's testimony before the Sub-Committee, our concerns regarding the veterans preference have been pacified. While there may be existing inequities in certain technicalities in the application of the Veterans Preference Act, assurances by the OPM Director to rectify existing inequities allays our fears.

In concluding, we would like to make an observation concerning Section 2405 of Public Law 97-35, the Omnibus, Budget Reconciliation Act of 1981, which eliminated eligibility for unemployment compensation of enlisted personnel who did not reenlist. While this matter may not be within the immediate purview of this Sub-Committee, under Section 2001 of Title 38 as it previously existed was in the jurisdiction of this Committee. In any event, AMVETS holds a position of strong reservations about any legislation which would deny benefits to those who served faithfully and would allow benefits to those whose service was less than honorable. Under Public Law 97-35, a veteran who served faithfully and was entitled to reenlist but did not do so for any of a variety of reasons, is denied entitlement to unemployment compensation. Ironically, one who served less than honorably and is not qualified to reenlist is entitled to unemployment compensation. This legislation which was enacted in August 1981 was made effective as of July 1, 1981.

HR-4942 would correct this inequity and this anomaly in the law. It was approved by the House of Representatives but during the pressing

hours of adjournment it was hung-up in the Senate. While we realize that this measure is within the jurisdiction of the House, Ways and Means Committee, we are constraint to believe that because there is a kinship with this Committee that you would wish to have our views expressed on this matter.

In conclusion, I wish to emphasize that a matter of top priority in our many goals to assist our veterans is that of obtaining employment for our Vietnam veterans. To accomplish this, AMVETS will place at its disposal every available means to accomplish this purpose.

Thank you.

TESTIMONY OF GABRIEL P. BRINSKY

AMVETS National Service & Legislative Director

Before The
SUBCOMMITTEE ON EDUCATION, TRAINING & EMPLOYMENT

Of The
COMMITTEE ON VETERANS AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

February 2, 1982

Thank you Mr. Chairman for the opportunity to submit supplemental testimony regarding AMVETS concerns on the devasting problem of veterans unemployment.

Our genuine concerns on this matter come at a time when inflation and unemployment soar at levels seen seldom since the end of World War II. Concomitant to these two, and we feel directly related, is a sagging national productivity.

We are often told by the wizards of economy that a major factor in bringing down the inflationary spiral is increased worker productivity, thereby increasing the gross national product. How, we ask, is this possible with the workers standing in unemployment lines?

Recent statistics show, for example, that some 640,000 Vietnam veterans were unemployed during the month of December. It is likely that many others, out of sheer frustration, have simply quit looking. The Vietnam veteran now falls into the age group which, in theory, should have the greatest of buying powers. Mr. Chairman, in December nearly three quarters of a million young men and women who

could do much to aid the nation's sagging economy sat idle. This, despite the fact that they have many positive skills and characteristic to lend to industry.

Cognizant of the fact that unemployment pervades all age groups of the veteran population, we wish to draw attention to what is lost to the efforts to increase the Gross National Product by allowing 640,000 Vietnam veterans sit idle:

--Over 1.3 Billion Man Hours, hours of producing goods and services are lost annually.

--Assuming that the average income for this group would be $15,000, the nation's economy is deprived of $9.6 billion in revenue annually.

It is unnecessary Mr. Chairman, for AMVETS to detail the staggering impact the forementioned has on the national economy, but we would be remiss in our testimony to the Committee if we failed to point out that history has proven that increased worker productivity leads to more jobs. We cannot estimate how many jobs would be provided by an increase of 1.3 Billion Man Hours of productivity; however, without fear of contradiction we can say that the resulting ripple effect on the national economy would effectively put the system on the road to recovery.

The question becomes, Mr. Chairman, how best to put this valuable labor resource of Vietnam veterans back to work. AMVETS would call for massive refunding of programs such as Disabled Veterans Outreach (DVOP). Inspirational refunding which would erase the annual spectre

of program termination each October. Only in this manner can needed confidence in the program be rekindled. Presently, the DVOP is a hot potato being tossed back and forth between state and Federal agencies, and at the grass root level this game of political ping pong has demoralized both DVOP Representatives and the constituency they serve.

The Targeted Jobs Tax Credit Program, with increased tax credit for the hiring of a veteran, would do much to achieve a lower figure of unemployed veterans. This would be a TJTC veterans' preference.

A revitalization of programs such as the HIRE I and II efforts of the past with effective implementation and greater involvement of DVOP overall as a watchdog agency insuring compliance would also do much to help.

Mr. Chairman, we do not portend to have all the answers, AMVETS only knows that by a simplistic equation the national economic future could be brighter. Without their contributions to it, can the Social Security system support the Vietnam veteran in 25 years? We say no, and implore this Committee to right the ship before disaster strikes, for we feel America needs the Vietnam veteran and indeed, all veterans just as much today as when they were on active duty.

With decisive measures, in the field of veterans employment, the wisdom and guidance of the Committee can do much to insure prosperity for Americans of all ages.

STATEMENT OF

JOHN F. TERZANO

VIETNAM VETERANS OF AMERICA

Mr. Chairman, I am honored to be here to testify before the House Veterans Affairs Committee.

Mr. Chairman, the Vietnam Veterans of America is appearing to testify at this hearing because of grave concern over a problem now directly affecting our constituency--unemployment. More Vietnam veterans are now unemployed than at any previous time, and this includes the early seventies when large numbers of young, untrained veterans were being released from the service into the civilian labor force. The statistics are startling. Today 175,000 more Vietnam-era veterans are now unemployed than just over one year ago.

We are not optimistic about the concern of the present administration over this problem. Programs operated by the Department of Labor for veterans have not fared well in the hands of this budget-cutting administration, partly, we suspect, because veterans' problems are seldom, if ever, separately identified. Both the Veterans Outreach and Community Services (VOCS) program and the Targeted Technical Assistance (TTA) programs were among the first programs to fall under the budget ax, despite the fact that these were the most significant Vietnam veteran employment programs to come about in the last four or five years.

The effect on the Vietnam veteran community was immediate and devastating. Many organizations which have accrued outstanding records of service to Vietnam veterans

didn't survive, including the Veterans Resource Center in Minneapolis, the St. Louis Veterans Service Center, the Program to Advance Veterans Employment (PAVE) in Vermont, and Community Systems Design of California. These programs thus lost the talent we badly need now in the face of rising unemployment among Vietnam veterans. The termination of the TTA program was a particular hard blow, since TTA was designed to provide the VA's Vet Centers with the employment services that their clients badly need. The drastic reduction in the VOCS budget and the termination of TTA was also an insult, since the decisions were made, not by an Assistant Secretary or Deputy Assistant Secretary for veterans employment, but by the 31-year-old Assistant Secretary of the Employment and Training Administration, Albert Agrisani, a nonveteran.

The loss of these programs was only the beginning, Mr. Chairman. Once any initiative in the area of job training or counseling had been eliminated, the next target was the State Employment Service and the Disabled Veterans Outreach Program (DVOP). By reducing the staff year ceiling of the Employment Service, from 30,000 to 24,900 and at the same time insisting that the State Employment Service Agencies also absorb the DVOP Program, the Administration is, in effect, downgrading the question of services to veterans that can be provided by the state, as well as creating animosity toward DVOP and the veterans program in general at the state level. The last continuing resolution reduced this staffing level of the employment service still further.

Mr. Chairman, we are at a critical crossroad with regard to the federal government's responsibility for providing employment and job training service for veterans. While wrenching changes are made in the structure of federal and federally funded job programs, unemployed Vietnam veterans are being caught in the backwash. The new Assistant Secretary for Veterans Employment was not appointed until a substantial part of the damage had already been done. We are finding it hard to believe that the appointment was not delayed by design, that veterans employment programs, already in disfavor by many Department of Labor bureaucrats, are targets for elimination.

The VVA sees two basic needs in veterans employment which need to be met, regardless of the changes contemplated for the federal government's overall employment programs:

1. Veterans, particularly Vietnam and disabled veterans need and will continue to need a placement service. For this reason, we favor restriction of the 30,000-staff year ceiling for State Employment Service Agencies. In addition, we urge Congress to provide sufficient additional funding to support the 2,000 staff DVOP proposed.

2. The unfortunate experience Vietnam veterans (and indeed, <u>all</u> veterans) had with the CETA Program indicates to us that a separate and distinct job training and counseling program for veterans is badly needed. To structure the law so that local communities are merely urged to consider the

needs of veterans in their program planning has simply not worked. The fact is, local communities view veterans as a federal responsibility. And, they are right. It was the federal government which made us veterans.

We believe, in addition, with the creation of an Assistant Secretary for Veterans Employment, capability now exists for the Department of Labor to administer a specific veterans employment and training program which will not be compromised by other Labor Department components with different agendas and responsibilities. We also believe that the creation of such a program will greatly assist the VA's Vet Centers in meeting the needs of their clients. We believe such a program could be designed at far less than the cost of CETA services for veterans this year. But we must be sure to see that in the process of current government reorganization that the serious employment needs of Vietnam veterans are met and that sufficient funding and services are provided to meet those needs, thus ensuring that veterans remain a national federal responsibility.

Mr. Chairman, I cannot emphasize too strongly that unless swift and direct action is taken, there will be no veterans employment programs next year. VVA urges strong, positive action by both the Administration and Congress to assure that employment programs for Vietnam veterans are developed to meet the growing need of those who served their country.

Statement of

The American Legion

1608 K STREET, N. W.
WASHINGTON, D. C. 20006

by

PAUL S. EGAN, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE COMMISSION

before the

SUBCOMMITTEE ON EDUCATION, TRAINING
AND EMPLOYMENT
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

on

VETERANS EMPLOYMENT PROGRAMS
UNDER CHAPTERS 41,42 AND 43 OF TITLE 38 U.S. CODE

FEBRUARY 2, 1982

Mr. Chairman and members of this subcommittee:

The American Legion thanks you for allowing us this time to present its views on veterans employment/training programs administered by the Department of Labor pursuant to chapters 41, 42 and 43 of title 38, United States Code. Pertinent resolutions adopted by The American Legion are attached and we request that they be made part of the record. Additionally, we have included two letters of correspondence, one from a recently laid-off Disabled Veterans Outreach Program (DVOP) specialist and another from an American Legion Department Employment Chairman. We commend these to your attention because, in our judgement, they represent what is happening to DVOP's and Local Veterans Employment Representatives (LVER's) across the nation.

On November 10, 1981, we appeared before this subcommittee and raised several concerns regarding the implementation of veterans employment/training matters. At that time, only three short months ago, there were approximately 525,000 unemployed veterans. Today, we understand, there are over 600,000 unemployed veterans which, in our view, represent merely the tip of the iceberg. Many other thousands of veterans, especially Vietnam era veterans (VEV's) and disabled veterans, have simply dropped out of the system. The official unemployment rate for veterans aged 25-29 as of December 1981 is 12.9%, up from 8.7% in December of 1980 and almost 4% higher than for non-veteran peers. It is our conclusion that a critical problem exists which must be addressed now--not later.

Appropriately, the Department of Labor (DoL) is charged with responsibility for veterans employment/training programs. In the

past, however, these programs and mandates were denied the priority treatment intended by Congress. This is because other competing target populations have taken precedence leaving veterans in the lurch.

Apart from competition among groups for shrinking federal dollars, law requires that veterans receive more than they are offered. Indeed, the number one concern within the veteran community is employment/training. Veterans are currently seeking all avenues available to address their employment/training needs. For example, for the period April 1, 1980--February 28, 1981, over 52,000 veterans were seen by VA Outreach Counselors, with nearly 60% being VEV's. Of the seventeen identifiable problems, employment/training ranked one with between 33-46% of those seen.

We are thus faced with a pressing issue: how to alleviate the severe problems of veteran employment? Through the efforts of the Legion and others the position of Deputy Assistant Secretary of Labor for Veterans Employment was, in October of 1980, elevated to a full Assistant Secretary for Veterans Employment, yet the position was not filled until December of 1981 with the confirmation of Mr. William C. Plowden. Mr. Plowden faces a difficult situation as veterans programs within the Department of Labor are in a state of high uncertainty and fragmentation. The Veterans Employment Service (VES) is rife with vacancies--some for over 18 months--in mandated positions. The issue of a Veterans Employment Service budget for fiscal 82 and 83 is unresolved, and there is a growing resistance by the states to accept the Disabled Veterans Outreach Program (DVOP) as funding is proposed to come from the Employment Service budget. Nonetheless, we believe

that Mr. Plowden has the ability and dedication to address these issues. We also firmly believe that the VES is capable of accepting new and innovative challenges, and that the VES is committed to the proposition of full veterans employment. Mr. Plowden can most assuredly count on the full support and counsel of The American Legion.

We must take a close and critical look at veterans employment/training matters. We hesitate to use the term "programs" as, in reality, there are no programs available for veterans, but, rather, available "administrative procedures" which consider veterans as part of an overall target population. Let us briefly look at the DVOP, which was to be a program in the purest sense, with specialists performing job development, training, outreach, counseling, and other functions. Congress, in enacting P.L. 96-466, intended that it be a permanent and continuous program, with over 2,000 nationwide staffers located in Employment Service (ES) offices and elsewhere addressing the employment/training needs of veterans. Yet, funding for the program is questionable at best, and a point of contention every fiscal year. Specialists do not know if they will have a position today or tomorrow. This condition leads to low morale, low productivity, and high staff turn over. Importantly, DVOP's are not, for the most part, protected during times of state reductions in force (RIF) and, therefore, are the first fired. Moreover, contrary to directives by the Department of Labor as to staff levels, many states have become resistant to this program. With approximately 2,018 staffers authorized, there are only approximately 1,500 still in DVOP slots; a shortfall of 518, with more specialists being released almost daily.

The situation with the local veterans employment representatives (LVER's) is no different; low morale, high staff turn over and no job security. They, like the DVOP's, are constantly forced to provide service to nonveterans and, indeed, in some instances, are nonveterans themselves, with both types of specialists providing service to whomever happens to be in the ES office lobby that day. We should also point out that both DVOP's and LVER's have no comparable positions within the state ES promotion ladder and are thus paid as interviewers. In short, both "programs" are in a state of extreme chaos.

Mr. Chairman, we fully understand the crises within the ES system. Since 1966 they have been under a 30,000 personnel ceiling, with approximately 28,000 nationwide staffers to respond to a constituency which has grown, over the years, 35 percent in its demand for services. All this while new directives, mandates, regulations, and court impositions have caused them to serve no constituency well, but have reduced them to assume an impossible task under extremely heavy burdens. And, if the proposed current budget cuts are approved, the ES will be reduced to 9-11,000 staffers in only 1,000-1,500 offices nationwide. It is indeed a system fighting for its very survival. The American Legion has long supported the ES in its struggle for adequate funds and staff. We again reiterate our concern and again pledge our support for an effective and efficient ES system as we perceive the ES as an important and vital link in the overall delivery system for veterans. Make no mistake about it, Mr. Chairman, if the ES system is reduced as proposed there will be no veterans system.

The American Legion is acutely aware of this condition and the limited role of the VES in state veterans employment matters. The

VES is to advise and monitor states' service to veterans; they cannot instruct, change or otherwise officially influence state services to veterans. When states do not provide federally established minimum guidelines, they are held to be "out of compliance," which amounts to a strong rebuke by Department of Labor officials. No state has ever had their funds withheld because of failure to optimize service to veterans. We thus have an employment/training picture that is indeed bleak for veterans, and this outlook is also applicable to the Office of Veterans Re-employment Rights (OVRR), as it will surely lose staff and funds. Moreover, that office is located under Labor-Management Services Administration (LMSA), yet the Assistant Secretary of Veterans Employment is to be the principal advisor on veterans affairs.

The problems of the ES and VES concern us greatly. We have been monitoring, indeed, have been involved with the situation for over one year. We have talked with scores of experts nationwide and have had hundreds of pieces of correspondence on this issue. In evaluating the mission of the VES in light of chapter 41, Congressional intent relative to other constituent groups having distinct and separate national manpower programs, The American Legion has concluded Congress also intended that veterans were to have a separate and distinct manpower program. So great was our concern for this that at the National Convention of 1981, The American Legion adopted Resolution No. 346, "Preference and Special Consideration for Veterans in All Block Grant Manpower Programs Funded by the Federal Government," followed by Resolution No. 22, "Seek Establishment of Separate Veterans Employment Program Appropriations to be Administered by the VES," adopted at the

meeting of the National Executive Committee in October of 1981. The latter is, in part, in response to a request from Undersecretary Angrisani in June 1981 to community based organizations inviting comments on future manpower programs.

It is our intent that in any redesign of CETA, or its successors, that funds be allocated and administered by the office of the ASVE for the design, implementation and monitoring of veterans employment/training programs. This concept of separate funds is in no way to be construed as advocating the elimination of existing veterans services within the ES system. Rather, we feel, this concept will enhance and improve their services to veterans with monies being used to fund veterans programs that utilize ES and other veterans programs. The objection has been raised that a concept like this will compete with the ES. First, veterans do not represent such a significant clientele that a supplemental system will cause the ES grievous harm; second, women, minorities, ex-offenders and other groups, which represent a far larger constituency have for years under CETA had nationwide programs that provide job counseling and placement without critical comment as regards competition; last, veterans employment/training programs should, indeed, must, work with the local ES office and utilize their services such as job information, labor market information, on-the-job, labor assessment, and a host of other services. It must also be made perfectly clear that any funds appropriated must be for the express use of veterans employment/training programs. Otherwise, the Department of Labor, may as has happened in the past, use these monies to shore up or substitute other labor programs. In our view, Veterans employment/training programs should be

predicated on local veterans employment/training needs with State and Assistant State Directors of Veterans Employment monitoring the contracting and use of federal funds by Community Based Organizations (CBO's) in conjunction with the ES. Moreover, a program of this nature will move the VES from an inactive and passive role to an active and involved role as program monitor and advisor.

Mr. Chairman, we cannot underemphasize the magnitude of the problem as time is indeed short. We firmly believe that funds must be appropriated to the office of ASVE for the design and implementation of separate and distinct veterans employment/ training programs. With some assurance, we can state that unless new solutions are brought to bear on old and persistent veterans employment/training problems, we will have utterly failed an entire generation of veterans. The American Legion simply wants a good program that is responsive to the needs of veterans; a program which we all can be proud of.

Mr. Chairman, thank you for allowing us the time to present our views.

91-318 O—82——15

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 19

COMMITTEE : ECONOMICS

SUBJECT : TARGETED JOBS TAX CREDIT PROGRAM

WHEREAS, The Revenue Act of 1978 authorized the Targeted Jobs Tax Credit Program, which provides tax credits for private employers hiring certain targeted group members, including veterans; and

WHEREAS, To be eligible for employment under the Targeted Jobs Tax Credit program, a veteran must be economically disadvantaged; and

WHEREAS, Present eligibility criteria are unnecessarily restrictive; exclude many veterans who could benefit from the program, and impose upon other veterans unnecessary preconditions which could delay their ultimate employment and rehabilitation; and

WHEREAS, Employment opportunities for veterans would be enhanced if their eligibility were expanded; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion urge Congress of the United States to enact legislation which would expand veteran participation in the Targeted Jobs Tax Credit program, and remove any prohibitive preconditions of enrollment; and be it further

RESOLVED, That the United States Department of Labor be asked to promulgate and emphasize regulations for implementation of this program to expand opportunities for qualified veterans.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
OCTOBER 14-15, 1981

RESOLUTION NO. : 22

COMMITTEE : ECONOMICS

SUBJECT : SEEK ESTABLISHMENT OF SEPARATE VETERANS EMPLOYMENT TRAINING PROGRAM APPROPRIATIONS TO BE ADMINISTERED BY THE VES

WHEREAS, The employment training needs of all veterans, especially Vietnam era veterans and disabled veterans, are substantially diverse from the employment training needs of other groups served by current manpower programs; and

WHEREAS, Programs under the Comprehensive Employment and Training Act have never delivered adequate services to veterans despite federal requirements and guidelines; and

WHEREAS, The current Administration proposes the elimination of CETA in many respects and to substitute manpower programs to be administered by the states predicated on their respective needs; and

WHEREAS, Based on this proposal States and the State ES system have not been historically responsible to the manpower needs of their veterans; and

WHEREAS, Chapter 41 of title 38, United States Code, provides that the VES, among other things, is to design and implement veterans employment training programs; and

WHEREAS, Congress has never appropriated funds for the VES to specifically address the severe problem of veterans unemployment and underemployment; and

WHEREAS, This inability to actively and decisively affect veterans employment training has caused the VES to assume a passive and secondary role; and

WHEREAS, The appropriation of separate funds for the VES to design, implement and monitor veterans; employment programs would have a profound positive effect on underemployed and unemployed veterans; now therefore be it

RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 14-15, 1981, that The American Legion seek to have Congress appropriate funds specially earmarked for the use of the VES to design, implement and monitor manpower training programs to meet the unemployment and underemployment needs of veterans.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 40

COMMITTEE : ECONOMICS

SUBJECT : DISABLED VETERANS OUTREACH PROGRAM

WHEREAS, Congress made permanent the Disabled Veterans Outreach Program with the enactment of PL 96-466 (38 USC 2003A); and

WHEREAS, Appropriations for the program are authorized under title 42, Section 1101, United States Code; and

WHEREAS, Under that authorization are all employment activity services, but not identified as specific line item budget amounts within the Department of Labor's Employment and Training Administration budget; and

WHEREAS, Such fiscal grouping of programs may cause other programs to be funded to the detriment of the Disabled Veterans Outreach Program; and

WHEREAS, Such fiscal grouping of programs provides no fiscal control and accountability of the Disabled Veterans Outreach Program; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion urge Congress and/or the Department of Labor to provide the Disabled Veterans Outreach Program with specific and separate line item budget requests; and be it further

RESOLVED, That the Department of Labor be urged to implement an effective administrative control mechanism to ensure Disabled Veterans Outreach funds are being utilized for the intended purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 72

COMMITTEE : ECONOMICS

SUBJECT : ADEQUATE FUNDING FOR THE VETERANS EMPLOYMENT SERVICE

WHEREAS, Chapters 41 and 42, title 38, United States Code, provide for an effective job placement, counseling and training programs for veterans, and provide, in Chapter 41, that the Secretary of Labor provide necessary funds for this purpose; and

WHEREAS, The U.S. Department of Labor has not fully responded with meaningful and productive efforts to provide for maximum employment and training opportunities for veterans; and

WHEREAS, The U.S. Department of Labor inadequately funds the Veterans Employment Service of the U.S. Department of Labor; and

WHEREAS, Such underfunding compounds the problem of unemployment of veterans, especially unemployment problems of disabled and Vietnam era veterans, which continue to remain at high and unacceptable levels; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion request that the Secretary of Labor shall submit to Congress a line item budget for the operation of the Veterans Employment Service; and require fiscal accountability to ensure that funds appropriated for the Veterans Employment Service are used for such purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 104

COMMITTEE : ECONOMICS

SUBJECT : FULL ENFORCEMENT OF REQUIREMENTS FOR AFFIRMATIVE ACTION FOR ELIGIBLE VETERANS BY FEDERAL CONTRACTORS

WHEREAS, Chapter 42, Section 2012 of title 38, United States Code, requires that any private contractor or subcontractor who has a government contract for the procurement of personal property and nonpersonal services of $10,000 or more shall take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era; and

WHEREAS, This federal statute further requires contractors to list "immediately" with the local Job Service office all of its suitable employment openings; and

WHEREAS, Enforcement of this requirement is vested in the Office of Federal Contract Compliance of the Department of Labor; and

WHEREAS, The Office of Federal Contract Compliance has not, in any meaningful and substantive way, enforced the above provisions; and

WHEREAS, There has been, and is, a blatant disregard of the above provisions by both the Office of Federal Contract Compliance and private contractors, thus denying qualified veterans employment opportunities within the private sector; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that the Office of Federal Contract Compliance in the United States Department of Labor be required to fully enforce the provisions of Section 2012 of title 38, United States Code, which are intended to help eligible veterans to find employment with contractors having federal contracts.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 111

COMMITTEE : ECONOMICS

SUBJECT : REQUEST THE UNITED STATES CONGRESS TO DESIGNATE A SPECIAL SUBCOMMITTEE TO STUDY THE EMPLOYMENT AND TRAINING NEEDS OF VETERANS

WHEREAS, Younger veterans of the Vietnam era and disabled veterans of all eras suffer employment/training problems greater than those of their non-veteran counterparts; and

WHEREAS, There is currently a growing demand for employment/training programs by older veterans; and

WHEREAS, The Congress of the United States has enacted laws providing employment/training programs to veterans either directly or indirectly; and

WHEREAS, Many of these programs are the responsibility of the Department of Labor which has not, in any meaningful and substantive manner, addressed the employment/training problems of veterans; and

WHEREAS, Congress, from time to time, designates a Special Subcommittee to review severe problems of a particular constituency; and

WHEREAS, The employment and training problems of veterans are, in fact, significant enough to warrant Congressional investigation; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that Congress be urged to designate a Special subcommittee to explore veterans employment/training problems.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 278

COMMITTEE : ECONOMICS

SUBJECT : AMERICAN LEGION ACTIVITY TO ENSURE AT STATE/LOCAL LEVELS MAXIMUM PARTICIPATION OF VETERANS IN FEDERAL FUNDED MANPOWER PROGRAMS

WHEREAS, The future status of the Comprehensive Employment and Training Act (CETA) under PL 9-203 is in doubt as the Department of Labor is planning for the consolidation, realignment or elimination of many programs under CETA; and

WHEREAS, This readjustment will have a severe effect on veterans' employment/training programs; and

WHEREAS, Under the CETA concept, veterans, especially Vietnam era veterans, were at no time a viable part of CETA; and

WHEREAS, The Administration proposes a return to the Block Grant system, wherein federal monies will be utilized by the states in best deciding employment/training programs based on state/local needs; and

WHEREAS, A Block Grant system will better address the employment/training needs of all veterans; and

WHEREAS, Respective state governors will be vested with the authority on how best to utilize these federal funds; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion call upon all department officers, post officers, and individual members of The American Legion to contact their respective state governors indicating that any state employment and training programs utilizing federal funds must include special programs for veterans employment and training.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 302

COMMITTEE : ECONOMICS

SUBJECT : OPPOSE ANY CHANGES IN THE WAGNER-PEYSER ACT HAVING AN ADVERSE EFFECT ON VETERANS

WHEREAS, The Congress, in the passage of the Wagner-Peyser Act of 1933, provided, in part, for the creation of the United States Employment Service; and

WHEREAS, Employment programs authorized by the Act directly benefit veterans; and

WHEREAS, Present budgetary reductions of these programs will have a profound detrimental effect on the employment of veterans; and

WHEREAS, These budgetary reductions will cause untold harm to the State employment security agencies as regard staffing, placement and programs; and

WHEREAS, The State employment security agencies are already under a 30,000 personnel ceiling since 1966 in a labor market which has expanded its demand for services over 30 percent; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion oppose any changes in the Wagner-Peyser Act as regard to programs that benefit veterans; and be it further

RESOLVED, That The American Legion urge full funding of all United States Employment Service programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 346

COMMITTEE : ECONOMICS

SUBJECT : PREFERENCE AND SPECIAL CONSIDERATION FOR VETERANS IN ALL BLOCK GRANT MANPOWER PROGRAMS FUNDED BY THE FEDERAL GOVERNMENT

WHEREAS, The Administration proposes the elimination of present federally funded employment and training programs; and

WHEREAS, The Administration proposes categorical block grants to states which will enable the states to design and implement their own programs based on state needs; and

WHEREAS, Veterans have never been a viable part of previously funded employment/training programs under the Comprehensive Employment and Training Act; and

WHEREAS, Veterans, especially Vietnam era veterans, suffer a higher unemployment rate than their nonveteran counterparts; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that both the Congress and the Administration be petitioned to ensure that veterans are made a substantive and meaningful part of any future federally funded manpower programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 517

COMMITTEE : ECONOMICS

SUBJECT : REQUIRE THE DEPARTMENT OF LABOR TO PROVIDE THE OFFICE OF ASSISTANT SECRETARY OF VETERANS EMPLOYMENT WITH SEPARATE LINE ITEM BUDGETS FOR ADMINISTRATION AND VETERANS PROGRAMS

WHEREAS, PL 96-466 elevated the Deputy Assistant Secretary of Labor for Veterans Employment position to a full Assistant Secretary for Veterans Employment and statutorily mandated the Disabled Veterans Outreach Program with administrative responsibility to the ASVE; and

WHEREAS, PL 96-466 can only be properly carried out by realigning the currently fragmented veterans programs within the Department of Labor under the ASVE; and

WHEREAS, The ASVE must administer veterans programs, but will have no control or influence over budgets for these programs since budget items for these employment programs for veterans must remain with the parent program component; now therefore be it

RESOLVED, By The American Legion, in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion require the Department of Labor to provide the office of the Assistant Secretary of Labor for Veterans Employment with separate and distinct line item budget for the administration of veterans programs; and be it further

RESOLVED, Seek to have all veterans programs within the Department of Labor aligned under the office of the Assistant Secretary for Veterans Employment.

JAN 2 1 1982

January 19, 1982

James G. Bourie, Jr.
Director of Economics
The American Legion
1608 K. Street, N.W.
Wash. D.C. 20006

Dear Mr. Bourie:

Allow me to re-inroduce myself. I met you in the fall of 1981 when you visited our Va. Bch. office of the Virginia Employment Commission. At that time, our office led the state in placements for veterans for the months of July, August, September 1981.

I have enjoyed my job as Disabled Veteran's Outreach Program interviewer as I firmly believe in hiring veterans. However, as a 30% disabled veteran myself, and having been unemployed in the past, I know personally that veteran status isn't always a plus when job seeking.

I write you now as a disabled veteran who will be out of work due to layoff effective February 1, 1982. I thought perhaps you might offer assistance in regards to possible job leads in the Tidewater area or suggest someone who could help me.

Any assistance would be appreciated.

Respectfully Yours,

Carol Daughtridge

MS. CAROL DAUGHTRIDGE

CAROL A. DAUGHTRIDGE
Disabled Veterans Outreach Program

Box 146
Hope, N.J. 07844

January 18th, 1982

James G. Bourie
Director for Economics
American Legion
1608 K St.
N.W. Washington, D.C. 20006

Dear Jim:

The last issue of Economic Nuggets requested information relative to the number of LVERs on board in the respective states.

I know that New Jersey was listed as requiring 28 such persons to be on board. As of this date we actually have 31 LVERs actively working as well as 31 ALVERs. However, effective February 14th this will be reduced to 20 as a result of the Reduction in Force. In fact there will be only 20 offices remaining in the state. (Employment Service)

There is provision for 69 DVOAs in the state. At the present time there are only 44 on board due to attrition and a temporary freeze on all hires. As soon as the reduction in force is over additional DVOAs will be placed to bring the figure back to 69.

This will mean that after February 14th approximately 25% of total staffing will consist of the LVERs and the DVOAs. At first glance this would appear excellent, however, many of the remaining positions are by contract and are specifically designated for such things as Food Stamps, WIN, TJTC and CETA. Many of the CETA positions will expire by September 30th. Very little if any effort is left for the mainstream applicant. I am afraid that this imbalance of lack of service might not only stymie the service to the veteran but create a severe backlash as all other non-veteran applicants will be turned away.

I regret writing such a negative letter but I am afraid that the Employment Service per se will within a year be naught but a paper service.

Sincerely,

Bill Malon

William Malon

cc: Warren Davies
WM:cf